

# Wasatch County Planning Commission October 25, 2023



## Item(s) #1, #2, and #3

### Core Architecture and the Church of Jesus Christ of Latter Day Saints

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- Ordinance 23-16 - Legislative Development Agreement
  - Final Subdivision Plat Approval
  - Site Plan Approval



# WASATCH COUNTY

## Planning Commission Staff Report Legislative Development Agreement, Final Plat and Final Site Plan approval

**ITEM(s) 1, 2 and 3** Jason Sandburg, representing Core Architecture and the Church of Jesus Christ of Latter Day Saints, requests consideration by the County legislative body for approval of ordinance 23-16 enacting, approving, adopting or authorizing the execution of a legislative development agreement in order to address aspects of the temple project. An associated MOU with the County, the Church and Heber City regarding improvements on Center Street will also be included as an exhibit to the legislative development agreement. (Jon Woodard and Doug Smith)

Jason Sandburg, representing Core Architecture and the Church of Jesus Christ of Latter Day Saints, requests Final Subdivision plat approval for the Heber Valley Utah Temple. The subdivision contains one lot and dedicates property for improvements on Center Street. The parcel is ~18.17 acres located at ~1400 East Center Street in Township 4 South, Range 5 East in the Residential Agriculture 1 (RA-1) zone. (DEV-7924; Doug Smith)

Jason Sandburg, representing Core Architecture and the Church of Jesus Christ of Latter Day Saints, requests Site Plan approval for the Heber Valley Utah Temple, a proposed religious temple consisting of a ~88,000 sf temple, ~ 2,000 sf grounds building, parking, landscaping and associated improvements on ~18 acres located at ~1400 East Center Street in Township 4 South, Range 5 East in the Residential Agriculture 1 (RA-1) zone. (DEV-7924; Doug Smith)

### PROJECT SUMMARY

**Applicant:** Core Architects, representing the property owner  
**Hearing Date:** 25 October 2023  
**Property Owner:** The Church of Jesus Christ of Latter Day Saints

**Acreage:** ~18.17 Acres  
**Existing Zone:** RA-1 (Residential Ag. 1- acre lot)  
**Existing Land Use:** Vacant  
**Proposed Land Use:** 88,000 sf. 210' tall Temple and ancillary uses

### BACKGROUND

The request is for approval of a temple for the Church of Jesus Christ of Latter Day Saints ("Church")<sup>1</sup> on a ~18.17 acre parcel of property at approximately 1400 East Center Street in the RA-1 zone. The temple is ~88,000 square feet and ~210' tall at the tallest point of the west steeple from natural grade. The site is located in the RA-1 zone which allows 1-acre single family lots if the project can comply with applicable code requirements.

<sup>1</sup> Style Guide — The Name of the Church - <https://newsroom.churchofjesuschrist.org/style-guide#:~:text=In%20the%20first%20reference%2C%20the,is%20also%20accurate%20and%20encouraged.>



Most are aware of the temple and the proposed location due to the lighting code recently adopted by the County that was initially applied for by the LDS church.

This is a unique project not only because of the size and scope of the primary building in the project, but also because the property is in Wasatch County not Heber City although the roads that provide immediate access to the site are in Heber City and the residents to the north and west of the site are in Heber City. To the east and south of the site is unincorporated County.

This staff report covers three separate application items that will be organized in the following sections in the following order:

1. Legislative development agreement, including exhibits and enacting ordinance; and
2. One lot final subdivision; and
3. Final site plan

Due to their interrelated nature the aforementioned items will be covered in this one staff report but will need to be reviewed concurrently with individual motions. If the legislative development agreement is not approved or not approved as written a different approval process may be needed. Many of the issues will be discussed under the portion of the staff report entitled “Site Plan”. This section will address issues like; lighting, setbacks, building height, parking, landscaping, trails etc.

The final site plan and subdivision applications were deemed complete on May 19, 2023. The applications were then sent through an internal Development Review Committee process that includes review by about 17 internal and external reviewers. Most of the ~17 review entities are looking at technical issues with the temple. Until the issues brought up by the various departments are resolved the item is not placed on a planning commission agenda. This proposal went through five review cycles each time with additional detail or clarification requested by various departments at each cycle.

The site is zoned RA-1. The temple, which is classified the same as a church<sup>2</sup>, is allowed by code in the RA-1 zone as a conditional use. However, it is typically not what would be anticipated in the RA-1 zone or frankly in any zone in the County due to the fact that temples are so unusual as to make this the first one applied for in the County. Typical uses in the RA-1 zone are single family housing on 1-acre lots or larger, or the continuation of historic agricultural uses. The temple will have private and public sidewalks, large landscaped gardens and lawns and more parking than a typical single family residential development would require. In a residential project in the RA-1 zone, heights are limited to 35’ from natural grade<sup>3</sup>, but greater heights are allowed as a conditional use for churches, church towers and similar structures not used for human occupancy which are not counted towards height (WCC 16.21.11). The proposed temple in contrast is ~88,000 square feet and ~210’ tall at the tallest point of the west steeple from natural grade.

The newly adopted lighting code allows for lighting on the temple and grounds in compliance with the code. The code was approved on April 19, 2023. The complete applications for site plan and subdivision approval for the LDS temple was submitted after the enactment of the lighting code. The application is considered vested under the approved lighting code, pursuant to Utah Code 17-27a-508.

The Planning Commission, staff, and the Council should be aware that Ray Quinney & Nebeker has filed a Petition for

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<sup>2</sup> WCC 16.08.03 includes Use Number 6910 as a Conditional Use. WCC 16.36.05 includes Use Number 6911 in 6910. 6911 includes: “Churches, synagogues, temples and missions.” Additionally, WCC 16.02.04 defines Churches and Temples the same.

<sup>3</sup> WCC 16.08.09.

Review regarding the recently enacted lighting Ordinance 23-01 in Case #230500048. Ray Quinney & Nebeker is representing the named petitioners Laurie Brown, Richard Getz, Julie Levinson, Randy Schroder, and the Save Wasatch Back Dark Skies, and a citizen group, in that case. The County Attorney's office gives this warning because of the possibility that Ray Quinney & Nebeker could try to use discussion of these applications for the various approvals against the County in the pending lawsuit, or in another lawsuit.

Since the proposal is such an unusual use, the applicant, through the application, has proposed that a legislative development agreement be used to address some of the issues related to this approval. This idea, and some specific considerations on the project that could be addressed through the development agreement, were presented to the Council for feedback purposes on June 21, 2023 in a public meeting. No specific concerns that showed it would be unproductive to proceed in this direction were raised by the Council, though it was clear that the Project was not being approved, even in general concept, at that time. The applicant has the right to apply for the Temple without a legislative development agreement, and the proposal would be considered as a conditional use. The proposed legislative development agreement, if approved, allows the proposal as a permitted use. The legislative development agreement, allowed by state code UCA 17-27a-528(2)(a)(iii), will also be used to address other unique elements of the temple, and can be used by the legislative body to make requirements unique to this project. If the council were to deny the request, and the applicant re-applied without a legislative development agreement, the council would lose the discretion to require aspects of the project to be addressed in unique ways, because the County would simply have to process the application under the vested code. Due to the unique aspects of this project, this could lead to outcomes that are not as desirable. For example, if a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application. UCA 17-27a-308(2).

Also, working with the applicant through a legislative development agreement creates a substantially diminished risk that the applicant could bring claims under RLUIPA (Religious Land Use and Institutionalized Persons Act of 2000). RLUIPA is a federal law, which among other things, prohibits the County from imposing a land use regulation in a manner that substantially burdens a religious institution, unless the County proves the regulation is advancing a compelling County interest in the least restrictive means.<sup>4</sup> By having the County legislative body and the applicant agree to standards for this project through the development agreement that both are satisfied comply with RLUIPA, and also advance the health, safety, and welfare interests of the public in compliance with Utah Code, then we can avoid disagreements that could arise over whether and how RLUIPA could apply to this project.

Due to the large amount of public interest in this issue, the County has sought to facilitate public comment by moving the public hearings to the Senior Center with overflow seating in the library, which can accommodate many more people than the regularly used Council Chambers. Staff has posted this staff report and ancillary material on the County website about a week before the first public hearing. This was done in order to give the planning commission and public time to carefully consider the staff's comments to the Planning Commission before the first public hearing on these proposals. Staff published the notice of this public hearing over 14 days before the hearing in the Wasatch Wave, and in several other ways including posting a sign on the property to try and ensure the public was aware of the public hearings. This is in addition to following the minimum requirements under the Wasatch County Code and Utah Code for noticing a public hearing.

Many of the concerns raised by the public regarding this proposal are the following:

1. Are the buildings height and size too big?
2. Is the lighting of the site and buildings too much?
3. Traffic

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<sup>4</sup> See 42 U.S.C. §§ 2000cc, et seq., and the resulting case law, for a more complete and exact explanation of RLUIPA.

#### 4. Water (dewatering of the site)

The staff report attempts to address these issues and more and provide the information which may or may not satisfy some or all of the appointed and elected officials concerns and the public and their concerns.

The purpose and intent of this staff report is not to provide justification for the proposal but to provide the necessary information in as concise and clear manner as possible so that the decision makers (planning commission and county council) can make an informed decision based on an understanding of the proposed applications. The review and approval or denial of all the applications is a legislative decision which is a land use decision made by the County Council after a recommendation by the Planning Commission.

### **STAFF ANALYSIS**

As mentioned there are three applications that are part of this proposal, legislative development agreement approval with its associated enacting ordinance and exhibits; small scale subdivision plat approval and site plan approval. Staff will address all three items separately divided by sections although all three application items are interrelated and have overlap.

#### ***SECTION 1 -LEGISLATIVE DEVELOPMENT AGREEMENT-***

There is no doubt that a proposal of this scale is unique. A temple is listed (6911) as a conditional use in the County land use code. Due to the uniqueness of the proposal, the County Legislative body has been asked to enter into a legislative development agreement as allowed by Utah Code 17-27a-528(2)(a)(iii). No doubt this will be seen by some as a run around the code requirements. However, when considering the findings required for a conditional use, the state code typically requires conditional uses to be approved but may require conditions<sup>5</sup>. Because the conditional use approval or denial is an administrative land use decision, the county cannot impose conditions or requirements on a project through the conditional use process, unless they are in accordance with the applicable standards of the code, which can be difficult to apply for a unique project such as this (UCA 17-27a-506(2-3)). In considering the conditional use application, "A county may not impose a requirement or standard on a conditional use that conflicts with a provision of . . . state or federal law," which could make applying a conditional use application for a temple subject to complicated matters in determining if the conditions or standards imposed on the application were allowed under RLUIPA. Deputy County Attorney Jon Woodard recommends that if the Council supports the application(s), or through the approval process can agree with the applicant to mutually acceptable requirements that promote the general welfare, using the legislative development agreement as opposed to the conditional use process allows a path to a better process and potentially a better approval than following the normal conditional use process and standards, for this unique application.

The state code allowing legislative development agreements provides some flexibility for projects that are unique and where it is impractical to address all regulations found in a land use code. Regardless of the location, a legislative

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<sup>5</sup> UCA 17-27a-506 (2):

- (a) (i) **A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed,** to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
- (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.
- (c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

development agreement would most likely have been the preferred way to address the unique issues associated with the proposal. This Utah code sections states 17-27a-528(2)(a)(iii) states:

*A development agreement may not: allow a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Utah code section 17-27a-502, including a review and recommendation from the planning commission and a public hearing.*

Approval of a legislative development agreement is entirely up to the County Council acting as the land use authority after review and recommendation by the planning commission. There are a lot of subjective statements in the legislative development agreement that the legislative body needs to be in agreement with and by approving the agreement are in fact stating that they are in agreement with the statements.

The major items addressed in the development agreement include but are not limited to:

1. Findings that the project is consistent with the General Plan (recitals section H)<sup>6</sup>.
2. Allows the use and height as a permitted use not a conditional use and that the use meets the findings required for a conditional use (4).
3. Agreement that the proposal is compatible with the surrounding uses (4.1.2.3)
4. Memorializes public trail requirements and ongoing maintenance by the owner. (3.1.4)
5. Ensures for payment of fees (3.1.2.2).
6. Ensures for construction of project improvements (3.1.3).
7. Establishes requirements for storm water management (3.1.5).
8. Provides for performance and warranty bonds (3.1.6.1).
9. Establishes that the lighting for the project will be governed by the lighting code as approved in the lighting plan and verified in the field during construction (4.1.2.7).
10. Allows for the building height and massing as proposed (8.2 and 8.3).
11. Allows for exterior lighting during the hours of operation (8.5)
12. Allows for an MOU with Heber City regarding Center Street (8.6)
13. Stipulates that the ridgeline/Viewshed analysis portion of the County code is not applicable to the temple (8.7).
14. Stipulates FEMA flood zone requirements (8.8).
15. Allows for closure of the stub-street referred to as Pimlico Drive and stipulates requirements (8.8.2).
16. Reinforces that the County Council is the land use authority for the applications for the project (8.12).
17. Allows for signage as proposed (8.11).

If the development agreement is not approved by the legislative body a different approval process may be required i.e., a conditional use application. If approved as proposed, the development agreement would need to be acted on concurrently with the other items on the agenda.

## **SECTION 2-FINAL SMALL SCALE SUBDIVISION-**

One of the necessary items requiring approval is a small scale 1 lot subdivision that creates the parcel, minus areas for road improvements. The proposal combines two parcels into one lot as well as dedicates property for the Heber City right-of-way including the round-about. The subdivision plat combines a 9.46 acre parcel and a 7.68 acre parcel into one platted lot. The boundary description on the plat states that the acreage is 18.17 acres which includes the property dedicated to Heber City for the widening of Center Street. The property without the dedication is 17.23 acres.

**-FEMA REQUIREMENTS-** The western portion of the property is in the FEMA 100-year floodplain and is considered a Zone AE. Zone AE means that the elevation of the 100-year floodplain is noted on the FEMA maps.<sup>6</sup> This portion of the property will have no structures but will be entirely landscaped and will not be changing the elevation of the property in the zone AE. The County has been discussing the proposal with State and Federal FEMA representatives who have indicated the proposed improvements are acceptable. The plat memorializes the 100-year floodplain.

The property that is included in the subdivision plat also contains the Lake Creek Chanel in the southwest portion of the plat. This portion of the Lake Creek Chanel is considered a floodway by FEMA. Regulatory floodways do not allow manipulation of the floodway that would restrict or increase the level of the water or in other words would not create a rise upstream from the improvements. Following is a definition of a regulatory floodway:

*“The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height”.*

There cannot be a rise in water level or a constriction as a result of work done in the floodway. The applicant is proposing to do work in the floodway and a “no-rise” report has been provided by the applicant’s engineer. The work that needs to be done in the floodway includes a storm drain outfall line, new water line and connection to the sewer. When working in Floodway’s, applicants are required to obtain a no-rise certification approved by the County before any work can be completed. The no-rise report has been reviewed by the County engineer and floodplain manager and approved. The “no-rise” report also includes the ongoing ground water from the temple perimeter foundation drain that is being discharged into the Lake Creek channel. With the work being done and the water being added to the channel the 100-year elevations stays within the acceptable parameters. The plat also shows the floodway on sheet 3 of the plat.

**-PUBLIC UTILITY EASEMENT REQUIREMENTS-** 16.27.12 requires a 10' PUE to be around the periphery of the parcel which has been added to the plat. Plats with public trails must have dedication language that dedicates the property to the public as per 16.21.09, 16.21.18 G and 16.27.12. Owner’s dedication must comply with WCC 16.27.12

**-SITE GROUNDWATER-** Tests have shown that there is relatively high groundwater on the site. Groundwater is currently at approx. 15’ below ground surface. The excavation to allow for the basement will be to a depth of ~41.25 feet from finish grade. Initial discharge is estimated to be at 600-800 GPM (Gallons per minute) for 1 month after which the rate declines to an estimated 200-300 GPM. During construction, a powered pump will be used. Long term there would be an ongoing flow that is anticipated to be 50-80 GPM. This flow will come from a gravity flow French drain around the perimeter of the foundation that will be installed approximately 15’ below grade and approximately 5’ into the groundwater level, though a deeper pumping system will be installed, but only operational for emergencies or maintenance. This type of perimeter drain is not unusual. Many of the homes in the surrounding area have French drains around their basements that’s discharges into the storm drain system in the public streets.

State code on water rights in section 73-1-3 states, “Beneficial use basis of right to use. Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state.” In discussion with water engineers and the State Engineers office moving this water from the ground around the foundation of the temple to the creek would not require approvals by the State Engineers Office because the water is not being put to a beneficial use. There is a permit required for the wells for the removal of the ground water through the State Engineers Office.

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<sup>6</sup>For most of these cites in this “major items” list, the item is addressed in a few different places in the development agreement, and I have not attempted to cite every location where the item is addressed.

The well for Heber City just to the east of the site is 200’ deep. It is anticipated that the dewatering of the site should not impact the well. However, the dewatering proposal has created concerns for Heber City’s water source that is to the southeast known as the Broadhead Spring. There has been discussion with Heber City and the applicant. There are studies being done regarding these concerns that are being addressed with Heber City.

**SECTION 3-SITE PLAN REVIEW-**

As mentioned in section 1 of this report the legislative development agreement stipulates that the proposal will be considered as a permitted use. If that is the case, and the council approves the proposed legislative development agreement, the proposal still requires site plan approval. A site plan review is to ensure that the proposed use and all the necessary ancillary issues i.e., parking, landscaping, fencing, trails, lighting and building height have been considered and either comply with code or will be part of the development agreement.

–*LAND USE AND DENSITY*– The proposal is on a 17.23 acre parcel after road dedications. The RA-1 zone is primarily a single family zone however the RA-1 zone does have a list of allowed uses and conditional uses. The RA-1 section of the code refers to land use 6910 “religious activities” as a conditional use. Under the larger heading in WCC 16.36 of religious activities is listed, “churches, synagogues, temples and missions”. The definitions section of the code provides the following definition:

*CHURCH OR TEMPLE: A building, together with its accessory buildings and uses, where persons regularly assemble for worship, which building, together with its accessory buildings and uses, is maintained and controlled by a religious body. There are some accessory uses to the temple that will be discussed as part of this section.*

Below is a section of the code that allows for a temple:

6910		Religious activities
6910	Religious activities	
	6911	Churches, synagogues, temples and missions
	6912	Religious reading rooms (must be separate from church structure)
	6919	Other religious activities, NEC

On the surface it may appear that a conditional use would allow discretion to deny a conditional use. However, in reality, conditional uses are uses that are allowed but may require conditions to mitigate negative effects. While a conditional use may typically be denied if the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated, the county must approve the conditional use if reasonable conditions are imposed, or can be imposed, to mitigate the reasonably anticipated determinate effects. UCA 17-27a-506(2). The code, adopted by the legislative body, has already made a determination that a temple is allowed in the RA-1 zone but may require conditions to mitigate negative effects. If the conditional use process were used the analysis and determination denying the conditional use would be made more difficult due to RLUIPA, because the standards and requirements of a conditional use cannot conflict with federal law. UCA 17-27a-506(1).

By entering into a legislative development agreement it is recommended that the council consider the impacts associated with the temple while realizing that the temple is in a RA-1 zone surrounded by single family homes that are



limited to a height of 35' from existing natural grade. The staff report is written to help the council in this analysis, and present a possible path forward.<sup>7</sup>

*-ROADS, ACCESS AND TRAFFIC-* As mentioned, the plat dedicates additional right of way and the applicant will be making improvements to Center Street including building the round-about. The round-about will have four legs. Two legs for Center Street east west directions, the third leg is the main entrance to the temple and the fourth north leg is for the eastern bypass road. Other than the leg into the temple site the improvements are in Heber City. Heber City annexed the road when Red Ledges was annexed into the City. Heber City has reviewed the applicant's traffic report and has approved the proposed improvements to Center Street as well as the MOU for maintenance and construction.

The RA-1 zone for this size property would typically allow approximately 13-14 homes which would create a traffic demand of approximately 140 ADT (Average Daily Trips). A single family subdivision would have been required to connect to the stub street in Triple Crown (Pimlico Dr.) ADT would have been somewhat higher than the 140 ADT due to through traffic from the Triple Crown subdivision however, not nearly as high as what is anticipated by the temple. According to the traffic analysis provided to Heber City by the applicant the temple will create a peak hour AM of 173 trips (hourly not daily as specified above for a subdivision) and a peak PM of 172 hourly trips. The total estimated trips per day for a weekday is 2,014 which would be similar to approximately 200 homes. Obviously the traffic created by the temple is significantly higher than what would have been created by a single family development on the property that could have been permitted under the RA-1 zoning. We have not attempted to compare the traffic impacts of the temple to other uses possible under the RA-1 zone, such as animal kennels, veterinary services, group transient lodging, residential facilities for handicapped or elderly persons or a mosque or synagogue. Since all the roads immediately surrounding the temple and that provide the major accesses to the temple are in the City, the City has performed the review of the traffic analysis and the required road improvements that provide access to the temple site. In talking with the Heber City Engineer the LOS (levels of service) for city roads is maintained at an LOS "C" which is acceptable to Heber City.

The final statement by the Heber City Engineer is:

"In addition to reviewing the TIS in-house, Heber City also sent it out to be reviewed by Horrocks Engineer's Traffic Engineering Team. The reviews resulted in minor comments which have been addressed by the applicant through the re-submittal and review process. Based on the review, the TIS appears to meet or exceed industry standards for these types of studies and is considered acceptable by Heber City".

*-PIMLICO DRIVE THROUGH STREET AND PEDESTRIAN REQUIREMENTS-* Pimlico Drive is a stub street in Triple Crown which is the subdivision to the south of the site. Pimlico Drive stubs into the south side of Lake Creek in the southwest corner of the temple property. The stub street was intended to go through and provide for traffic flow into this property which, as mentioned, was assumed would be developed as residential. A number of code and General Plan sections require a through road. In this situation a through road is not a preferable option from a County perspective due to the increased traffic that would be generated in the Triple Crown development. The applicant, after direction from the County, has proposed to dead end but finish the road. The end of the road would be finished with curb and gutter around the north end of the stub street, a sidewalk around the outside of the curb and gutter to the west side of the street, a handicap ramp into the end of the road and placing signs denoting that the road ends. All storm drainage will be directed to the inlet box to the south and will flow appropriately.

Code and General Plan sections that require a through road and pedestrian access are numerous in the county code and include:

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<sup>7</sup>See WCC 16.08.11 for more detail on the site plan requirements.

- 16.27.28: Street Standards
- 16.27.29: Roads and Intersections
- 16.27.30: Relation to Adjoining Streets
- 9.1.6 Policy of the General Plan
- 9.3.2 Policy of the General Plan
- 9.3.3 Policy of the General Plan
- 16.08.14(H) Roads, sidewalks and trail improvements
- 16.21.18(B) New developments to connect to trails
- 16.38 County trail requirements

**-TRAIL SYSTEM-** If the temple site would have developed as a residential development the stub road would have gone through and pedestrian access would have been part of the right of way in the form of sidewalks on both sides of the road. Because it is proposed that the road not go through the applicant has proposed to finish the road as explained above and not provide for a direct pedestrian connection from Pimlico Drive. Currently there is a dirt trail at the end of Pimlico Drive on the west side of the road that connects to the canal trail. However, this dirt trail runs through private property and there is no formal easement for access. The applicant's proposal is to not require the additional pedestrian access. Their proposal is supported by their argument that there is access to the asphalt trail, which provides access to the temple, at two other places in Triple Crown. One is the access along the Humbug canal and the other is from the cul-de-sac at 1650 East.

If the County requires a pedestrian access off Pimlico Drive the applicant would either have to purchase an easement through the private property to the west of Pimlico Drive and build an asphalt trail or build a bridge over Lake Creek which would provide a more direct access off Pimlico. Both of these options are possible requirements the County could impose. The bridge option could be complicated due to the FEMA floodplain and regulatory floodway that the bridge would have to span. The applicant has stated that they do not want the liability or the perpetual maintenance of the off-site bridge or trail.

Currently there are three trails stubbed to the property. One trail runs directly behind the Heber City well and Questar sub-station site and ends at the southwest corner of the Questar site (northeast portion of the temple site). This trail was intended to connect to a future development that would be required to provide access along the Lake Creek frontage. The applicant will connect to this trail which will turn north along the west property line of the Questar property and tie into the new trail that will be built on Center Street along the entire frontage of the temple property. The second connection is the trail that runs along Lake Creek originating in the Beaufontaine subdivision. This trail stubs into the temple property on the southeast side. This trail will connect along the south side of the temple and run west to the canal where it will turn north and intersect with the Center Street Trail that will be built in front of the temple. The third connection will tie into the existing trail that runs along the west side of Triple Crown on the East side of the canal and stubs to the southwest side of the temple property.

**-SETBACKS-** Some of the concern of the proposal is the size of the structure and the proximity to residential uses and Center Street. The setbacks provided on the site plan are the following:

- The setback off Center Street is 208'-1".
- The setback to the east property line at the closest point is 184'-5".
- The setback to the south is approximately 226'-10"
- The setback to the west property line is 756'-7".



All setbacks are significantly greater than the setbacks for the RA-1 zone which are: Front setback is a minimum of 50' from Center Street, side setbacks are a minimum of 10' and a total of 24' and the rear setback requirement is 30'. 16.21.19(A) entitled, "Transitional development standards for nonresidential uses bordering residential zones states",

- A. Where a lot in any business, commercial or industrial zone abuts a lot in any residential zone or use, there shall be provided a landscaped yard of at least ten feet (10') in width along such property line. In addition, the required setback shall increase as building height increases: the building shall be set back at least one foot (1') for each two feet (2') of building height above twenty feet (20')

This code section is arguably not entirely consistent with the temple proposal in that the temple site is not zoned for commercial or industrial however the general intent can be applied since the use is adjacent to residential uses. Section 16.21.11 of the Wasatch County Code states that "additional setbacks may be required" for churches that are granted a greater height than is permitted in the zone, but does not place clear guidelines for how much additional setback should be required. In this context, the standard of 16.21.19(A) provides an objective standard that has a similar purpose, and can help guide the county.

The code requires that commercial uses adjacent to residential zones or uses is required to provide a landscaped yard of at least ten feet (10') in width along such property line. The applicant has provided the 10' landscape strip around the site when adjacent to residential uses. The code also states, "In addition, the required setback shall increase as building height increases: the building shall be set back at least one foot (1') for each two feet (2') of building height above twenty feet (20')". While this code is not completely applicable if it were used the following setbacks would be required for a commercial use of this height adjacent to a residential use.

- North setback would be a minimum of 105' the site plan provides 208'-1"
- East setback 105' the site plan provides 184'-5"
- South setback 105' the site plan provides 226'-10"
- West setback 105' the site plan provides 756.6"

Even with the larger setbacks, that aren't directly applicable by code, this application is exceeding the setback requirements however, the building is very large for a zone that anticipated a maximum height of 35', and through the legislative development agreement process the council does have discretion on both the setback and height issues. However, under a conditional use application, the County may struggle to support a more restrictive setback requirement under the applicable codes, and RLUIPA.

*-NOISE/MAINTENANCE BUILDING-* As mentioned in the definition for a temple there is an allowance for ancillary uses. The proposed site plan shows a ~2,000 sf. temple maintenance building in the northeast portion of the site. This building will have loading docks on the north facing side as well as a cooling tower for the temple. 16.21.09, 16.23.07 or 16.28.02 requires that noise should be taken into consideration adjacent to residential uses. 16.21.19(H) states that all mechanical equipment (i.e., air conditioners, fans, pumps, etc.) shall be located within the building or on the roof with parapet walls in non-residential uses bordering residential uses. Any mechanical equipment located on the outside of the building within twenty five feet (25') of the nearest residential use/dwelling must have a visual/noise barrier (masonry wall) and/or landscaped berming that completely surrounds the equipment and extends at least one foot (1') above the equipment. The wall proposed around the cooling towers does not extend a foot above the cooling tower but the setback to a residential use property line is ~40'. 16.21.19 states that no loading docks, delivery pick up areas, etc., may be located within fifty feet (50') of a residential use/dwelling. These areas must be screened from the public view with a six foot (6') masonry wall or solid fence.

At 13' tall the maintenance building is significantly lower in height than a single family home that could have gone in this location. The side setback to the east property line is 20' where a single family home could be 10'. The setback to the south property line is 40' where a single family home is allowed to be 30'. The cooling tower attached to but to the west side of the maintenance building is 40' from the south property line with a solid 13' tall masonry enclosure surrounding it. South of the maintenance building there is a 40' landscape buffer and an 8' solid concrete wall on the south property line. On the east property line, adjacent to the Questar Gas sub-station, there is an 8' decorative metal perimeter fence. There has been some concern regarding the noise of the maintenance building and the cooling towers. The County asked the applicant to do a noise study (see attachment). The study states that the noise at the property line will be 46 dBA and 34dBA on the outside of the solid concrete wall at the property line. For context 34 dBA is compared to rustling leaves or a whisper.

Associated with the maintenance building area is a dumpster within an enclosure to the northeast of the maintenance building. The dumpster enclosure is solid masonry block that is 7'4" tall with solid gates on the front. The dumpster enclosure backs up to the trail and the Questar natural gas site to the east. WCC states that "No trash container shall be located closer than twenty five feet (25') to a residential property line". The proposed location is approximately 90' from a residential property line. The setback from the dumpster to the future trail corridor is approximately 7' however to the common property line with Questar it is approximately 25'.

– *OPEN SPACE/LANDSCAPING* – Landscaping for the site is abundant as compared to most proposals. 44% of the site is landscaped. There is a mixture of a total of 523 evergreen and deciduous trees to be planted on the site. The site will also have 4,581 evergreen and deciduous 5 gallon shrubs. In addition to this there will be other ornamental grasses, annual and perennial flowers and groundcover. At one point the buffer around the south and east sides of the temple, where the temple parking lot is adjacent to residential uses, did not have the required 10' landscape strip. This has been updated to show 10' as a minimum. Section of 16.21.19(D) needs to be complied with which requires the 10' landscape buffer between parking areas and residential uses with trees spaced no further than 25'.

-*FENCING/WALLS*- The entire site is enclosed in either a fence or precast concrete wall. The south property line, where the parking lot is adjacent to residential uses, is enclosed by an 8' pre-cast wall. Inside of the concrete wall is a 10' landscape buffer. In areas where landscaping (not parking) is adjacent to residential uses the solid pre-cast wall is replaced with a decorative metal fence. Walls and fences are approximately 8' tall.

– *PARKING* – Due to the unique nature of this project, the County required substantial evidence for determining the number of parking stalls, in addition to the 16.33.13 parking matrix. Under the matrix, a church (which 16.04.02 defines as the same as a temple) which has classrooms, chapel and offices bases the parking from the seating capacity in the chapel (the main assembly room). This method would not account for the large number of temple workers, baptismal font, endowment rooms, sealing rooms, waiting rooms, offices etc. Section 16.33.12(K) allows for a parking study to be done which would help ensure there is substantial evidence supporting parking numbers when a use is proposed that is not clearly noted in the parking matrix. Due to the unique nature of the temple, we asked for a study. A study has been provided based on 1 stall for every 3 seats (as per code) in the various gathering rooms, baptistery etc. and include parking for temple workers in accordance with WCC 16.33.13. This exceeds what the county could probably clearly require from applying the WCC 16.33.13 church standard to the temple, due to the lack of a single 'main assembly room' in the temple. Center Street, and adjacent properties, will not facilitate on street parking. Ensuring the parking will be adequate for the life of the structure, and considering the growth in the area, is important.

The study provided by the church states the following:

"Seats at all assembly areas have been counted as well as other miscellaneous seats, rather than just at a "main assembly area". And then divided by 3, consistent with the Wasatch County Code section 16.33.13 for churches. These

areas include: baptistery, baptistery chapel, confirmation rooms, waiting areas, entry areas, worker study rooms, worker training rooms, bride's rooms, instruction rooms, veil worker rooms, celestial room, chapel, sealing rooms, marriage waiting room, and initiatory rooms and youth center. Per the attached calculation there are a total number of 1,217 seats in these assembly and miscellaneous areas. This number divided by 3 equals 405.67 parking stalls required. In addition there is 3,899 sf. of office area. This area divided by 200 (as per code) equals 19.50 parking stalls required." Code requires a total of 426 parking stalls. The site plan provides for 454 parking stalls".

PARKING STALL COUNT	
TOTAL STALLS:	454
STALLS:	431
HC STALLS:	23

– **BUILDING HEIGHT** – Wasatch County code requires building heights to be measured from existing natural grade. With that in mind the height to the top of the west steeple from existing natural grade is 210' (because there is approximately 10' of fill over natural grade). The main portion of the building between the two steeples varies from natural grade but is slightly over 81'6". The east steeple is approximately ~141'10" when measured from natural grade.

The structure is extremely tall for this area and the allowed surrounding residential buildings are limited to a maximum height of 35'. Section 16.21.11 for churches and considered under the broader heading of land use number 6910 states the following:

**HEIGHT OF BUILDINGS:**

1. Minimum Height of Buildings: No dwelling shall be erected which has a ceiling height of less than eight feet (8') above the average level of the ground on which the dwelling is located.
2. Maximum Height:
  1. Churches: Churches are a conditional use in all zoning districts. In the event that a conditional use is granted for a greater height than is permitted in the zone, additional setbacks may be required.
  2. Structures Not For Human Occupancy: Chimneys, flagpoles, clock towers, church towers and similar structures not used for human occupancy or industrial uses, are excluded in determining height, except as specifically otherwise required in this title.
  3. Residential Structures: Height of residential structures are contained in the individual zones.

The code does not specifically place a height limit on churches and church steeples but allows them to be considered as part of the conditional use which may require greater setbacks. As mentioned before if the council approves the legislative development agreement the use will be considered permitted. Even if considered as a conditional use the height is determined as part of the approval process not under a specific height required by code. Also as mentioned earlier the setbacks for the structure are in excess of the setbacks required by code however, this type of use or the intensity of this use was not anticipated. The legislative development agreement gives the county legislative body the discretion to allow or require the height they believe is a benefit to the health, safety, and welfare of the community. If the legislative development agreement is not approved, or is not accepted by the applicant, the County may have to consider the appropriate height restriction under the conditional use criteria, and considering RULIPA. The planning commission and County Council may want to consider the height and deliberate the impacts of the height in this area

that typically would have limited height to 35' for a residential structure, but would have required significantly lessor setbacks and landscaped areas without structures.

**-LIGHTING** – The lighting for the proposal is regulated under the recently adopted lighting code (Ordinance 23-01). The County is currently in litigation over ordinance 23-01. In order to ensure the project is subject to the progressive standards of ordinance 23-01, under the development agreement, the county and the applicant would agree to be bound by ordinance 23-01 regardless of the outcome of the litigation. A primary intent of ordinance 23-01 is to ensure that all lighting is at the minimum levels required by code for the IBC (International Building Code) required lighting for egress from the building to a public way and lowest recommended levels of lighting for the IES (Illuminating Engineers Society) for the parking lot including associated walkways. Lighting outside of required lighting by the IBC and recommended lighting by the IES for parking lots is limited to 25,000 lumens per improved acre. The temple lighting plan shows that the “counted lighting” required by code comes to a total of 24,939 lumens per improved acre.

As part of the review of the lighting plan submitted by the applicant the County hired Clanton and Associates. Clanton & Associates is a lighting design and engineering firm. The primary reviewer of the temple lighting plan was Dane Sanders, President of Clanton and Associates. The initial plan submitted by the applicant was not in compliance with the lighting code and was rejected. The applicant resubmitted with an adjusted lighting plan which was reviewed by the consultant and is now in compliance, according to the consultant and the applicant. The development agreement approves the lighting plan as designed. As constructed, it will only be in compliance as long as the adjustable lighting levels are kept at the levels approved and are not raised, and the lighting is directed as required. Some of the items that have changed since the initial discussion of the lighting of the temple are the following:

1. The lighting of the spire on the east side of the temple, due to its height at 135', is not regulated by the FAA. Therefore the spire will not be required to be lit to the brighter FAA requirements but will be consistent with the rest of the temple and the lighting will be extinguished after open hours consistent with the rest of the temple.
2. The spire on the west side, if approved at 210 feet, is proposed to have a red static beacon on the top and will not need the top 1/3 of the spire to be lit to FAA requirements. The west steeple will not be brighter than the rest of the temple and, as is the case with the east spire, lighting will be extinguished after open hours.
3. The applicant has agreed that the operational hours of the temple will be from 6:00 A.M. to 10 P.M. for lighting purposes. This will allow the applicant to light up the exterior of the temple in a predicable manner regardless of operational anomalies, and will ensure that the exterior lights are turned off at 11:00 PM regardless of whether the temple is actually open later than 10:00 P.M.
4. The approved code allows for a maximum of 27 candelas per square meter. The highest bright spot on the temple as per the plan and renderings is 22 candelas per square meter on the west façade.

By providing lighting in areas such as walking paths, to the lowest levels recommended by the IES, but where not required by the IBC, the applicant has facilitated lit walking areas that are probably safer for pedestrians, at the expense of being able to have a brighter exterior to the temple. The building lighting will be limited by the 25,000 Lumens per improved acre cap.

There are two 15' high poles on the west side of the temple to light the west façade more uniformly. With the luminaries the height is 17' 9". These poles have 4 spotlights on each pole. These poles will need to be lowered so that the height is 15' to the luminary or light source. These pole mounted luminaries will also need be field adjusted so that the adjustable shields have full cut off provided by the building.

The code defines pole height as:

*POLE HEIGHT: The distance in the vertical direction above finished grade to the lamp or light source of a pole-mounted luminaire.*

As a condition of approval all lighting will be required to be field verified to ensure lighting levels are compliant with the approved plan and code and that the adjustable up lighting has full cutoff as required by the code. Lighting levels should be limited to the approved levels in perpetuity as a requirement of the development agreement. The lighting plan submitted, reviewed, vetted in public hearings and approved by the legislative body should be the final plan used in the field.

By lowering the height of the temple west spire, the need for any FAA lighting would be eliminated. However, the County is not certain what that height is. Ordinance 23-01 exempted “any form of lighting whose use is mandated or otherwise governed by any legal jurisdiction higher than that of the County.” If the applicant were to apply under Ordinance 23-01 without a legislative development agreement, the lighting considerations under Ordinance 23-01 would not be used to limit the height of the structure. This issue was considered in the enactment of Ordinance 23-01, for which the Church was the applicant. However, in the context of a legislative approval, the County legislative body could consider or require a lower height to eliminate the FAA lighting requirement. If the County legislative body desired to consider this, we may want to retain an expert that specializes in FAA lighting requirements. As proposed, the legislative development agreement holds the temple to the standards of Ordinance 23-01, including for exempting lighting that is required by the FAA, as was contemplated when the County legislative body approved Ordinance 23-01.

– *SIGNAGE* – Typically the RA-1 zone only allows for home occupation signs attached to the dwelling and entry monument signs for subdivisions (16.08.14(A)). Home occupation signs are limited to 2 square feet in area. Typically signs for churches are attached to the building and are approved as part of the conditional use. The temple proposal is for a monument sign that is a little over 3’ x 13’. It is included in the development agreement as a legislative approval for the project. The exterior inscriptions of *Holiness to the Lord* and *House of the Lord* are also allowed, as is signage permitted by the Manual on Uniform Traffic Control Devices to help guide vehicular and pedestrian traffic in the project. The applicant has represented that the temples of the Church draw people from outside of the community, and this signage will promote safety and welfare by helping people find the temple, and understand what the temple is, and navigate the premises safely. In approving the development agreement, the County would be agreeing to these things. If the development agreement was not approved, the signs would need to be re-evaluated in light of the standards of the Wasatch County Code and the requirements of RLUIPA.

-*LEGAL AND FISCAL ANALYSIS*-A legal and fiscal analysis has been provided by the Attorneys office as well as the Clerk’s Office and attached as Exhibit Q.

#### **DEVELOPMENT REVIEW COMMITTEE/FISCAL REVIEW**

This proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards, and codes. A report of this review has been attached in the exhibits. The Committee has accepted the item for Planning Commission to render a decision. Deputy County Attorney Jon Woodard has reviewed the development agreement and the ordinance, and has no legal objections to them as drafted. The Clerk/ Auditor office of the county performed a fiscal review, and found the ordinance and development agreement, as drafted, would have no significant fiscal impact on the County and would not result in an increase or decrease in taxes or debt. Reports of these reviews have been attached in the exhibits.

## **ITEMS FOR CONSIDERATION**

Normally under Utah Code, if an application meets the requirements of the code, the land use authority must approve the application. Due to the legislative development agreement, which allows a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, the Council has greater discretion than would normally be allowed. For this reason, staff's role in helping the land use authority evaluate whether the application meets the requirements of the code is different from most land use applications that do not involve a legislative development agreement.

The legislative development agreement, under which the project is proposed to be approved, opens up policy issues, for which the county legislative body must determine if the legislative development agreement promotes the general welfare. In considering this, the planning commission and council may consider discussing:

- The proposed height.
- Proposed roads, trails, traffic, and parking.
- The MOU with Heber City and the applicant.
- Pedestrian access at the end of Pimlico Drive.
- The lighting plan.
- Hours of operation fixed at 6 A.M.- 10 P.M. with lighting off at 11.
- The temple may not be subject to FAA required lighting if the west tower were lower.
- The dewatering plan.
- The ridgeline and viewshed ordinances and determining those ordinances do not apply in the valley floor.
- FEMA requirements.
- Using the legislative development agreement process for approval (UCA 17-27a-502).
- Not requiring the temple and the lighting to go through a conditional use process.
- The signage proposed.
- Approving the project as consistent with the intent of the general plan.
- Does the approval of the temple promote the general welfare?

## **POTENTIAL MOTION**

Move to Approve with Conditions consistent with the findings and conditions presented in the staff report.

### *Findings:*

1. The proposal is for approval of a legislative development agreement, one lot final subdivision plat approval and site plan approval.
2. Due to the uniqueness of the proposal, among other reasons stated in the development agreement, the County Legislative body has decided to enter into a legislative development agreement as allowed by Utah Code 17-27a-528(2)(a)(iii).
3. The legislative development agreement process was discussed with the council on June 21, 2023 in a public meeting and no reason for not following this process was given by the council.
4. The proposal is located in an RA-1 (Residential Agricultural) zone which is a single family zone that allows churches/temples as conditional uses (WCC 16.21.11).
5. Utah Code states that a land use authority shall approve a conditional use if reasonable conditions are proposed to mitigate anticipated detrimental effects. See Utah Code 17-27a-506(2)(a)(ii). The County has chosen a development agreement that can include additional terms that may not be allowed in a conditional use process.
6. The proposed legislative development agreement would make the temple a permitted use.
7. For reasons explained in the development agreement and this staff report, the legislative development



agreement makes both the temple and its height a permitted use, whereas without the development agreement, the temple and the height would be conditional uses that would have to be approved or denied in a manner consistent with applicable law and RLUIPA (Religious Land Use and Institutionalized Persons Act).

8. Working with the applicant through a legislative development agreement creates a substantially diminished risk that the applicant could bring claims under RLUIPA. RLUIPA is a federal law, which among other things, prohibits the County from imposing a land use regulation in a manner that substantially burdens a religious institution, unless the County proves the regulation is advancing a compelling County interest in the least restrictive means.<sup>8</sup> By having the County legislative body and the applicant agree to standards for this project through the development agreement that both are satisfied comply with RLUIPA, and also advance the health, safety, and welfare interests of the public in compliance with Utah Code, then disagreements can be avoided that could arise over whether and how RLUIPA could apply to this project.
9. A Determination denying a conditional use would be made more difficult due to RLUIPA, because the standards and requirements of a conditional use cannot conflict with federal law. UCA 17-27a-506(1).
10. Normally under Utah Code, if an application meets the requirements of the code, the land use authority must approve the application. Due to the legislative development agreement, which allows a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, the Council has greater discretion than would normally be allowed.
11. The RA-1 zone allows for single family homes with a density of 1.3 acres per unit for large scale developments that comply with code requirements, which might allow up to 13-14 lots on the subject property.
12. Single family homes in the RA-1 zone are allowed to have a maximum height of 35' from natural grade.
13. The temple is proposed to be ~200' tall at its highest point from finished grade, with ~82' to the top of the screen parapet and ~137' to the top of the east tower. Due to the natural grade sloping to the west measurements from natural grade is a range through the middle of the temple. There is ~10' of fill at the West façade and ~4' at the east façade.
14. The legislative development agreement gives the county legislative body the discretion to allow or require the height they believe is a benefit to the health, safety, and welfare of the community. If the legislative development agreement is not approved, or is not accepted by the applicant, the County may have to consider the appropriate height restriction under the conditional use criteria, and considering RLUIPA.
15. WCC 16.21.11 states, "Structures Not for Human Occupancy: Chimneys, flagpoles, clock towers, church towers and similar structures not used for human occupancy or industrial uses, are excluded in determining height, except as specifically otherwise required in this title.
16. WCC 16.21.11 states, Churches are a conditional use in all zoning districts. In the event that a conditional use is granted for a greater height than is permitted in the zone, additional setbacks may be required.
17. The setbacks for the temple are significantly greater than setbacks required by code.
18. The temple has substantially more landscaping than would be typical for a residential development and it provides a substantial area without structures that will function to protect an open area in the county.
19. ADT (Average daily trips) for a 14 lot subdivision would be approximately 140 trips per day.
20. The temple during its peak hour is anticipated to create 173 trips during peak am hour and 172 trips in a peak pm hour and 2,014 anticipated weekday daily trips. This amount of daily trips is roughly equivalent to 200 homes.
21. The roads adjacent to the site, including the eastern bypass road, are in Heber City who has approved the proposed dedication for the widening of Center Street and reviewed and approved the traffic analysis and approved an MOU with the church.

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<sup>8</sup> See 42 U.S.C. §§ 2000cc, et seq., and the resulting case law, for a more complete and exact explanation of RLUIPA.

22. The applicant is required to do improvements to Center Street as well as complete the round-about under Heber City's direction.
23. In talking with the Heber City Engineer the LOS (levels of service) for City roads is maintained at a LOS "C" which is acceptable to Heber City.
24. If the temple site would have developed as a residential development the stub road at Pimlico Drive would have gone through and pedestrian access would have been part of the right of way in the form of sidewalks on both sides of the road.
25. The proposal is to finish Pimlico Drive and not require a pedestrian connection at Pimlico Drive due to access at other places in the subdivision.
26. The proposal dewater the site by pumping 600-800 GPM of water into the Lake Creek channel after the initial foundation excavation that is to a depth of ~41.25 feet, during construction.
27. There is anticipated to be an ongoing flow of around 50-80 GPM. This flow will come from a gravity flow French drain around the perimeter of the foundation that will be installed approximately 15' below finished grade and approximately 5' into the groundwater level.
28. The Lake Creek channel is a FEMA regulated zone A-E. A "no rise" report has been submitted, reviewed and approved by the County. The State FEMA office and the regional FEMA office in Denver have also been involved in the conversation.
29. According to the State Engineers office and the applicant, if the applicant is not putting the water from the foundation drain to beneficial use, the applicant can dewater the site and discharge into the Lake Creek Channel.
30. The site plan application was submitted and considered complete after the adoption of the lighting ordinance (23-10), and is considered vested under the recently adopted lighting code regardless of the outcome of the litigation challenging the ordinance.
31. The property is in the Heber City airport flight path and is required to comply with FAA requirements. As proposed, the west tower that is 210 feet tall would be required to have a static red light.
32. FAA lighting may not be required if the west steeple is lowered.
33. The lighting code exempts the lowest levels of parking lot lighting (as recommended by the IES) and the lowest levels of IBC lighting for egress. This leaves a maximum of 25,000 lumens per improved acre for the balance of the site for non-essential pathways and building lighting.
34. The temple lighting plan shows that the "counted lighting" required by code comes to a total of 24,939 lumens per improved acre.
35. The applicant has agreed that the operational hours of the temple will be from 6:00 A.M. to 10 P.M. This will ensure that all exterior lights are turned off at 11:00 PM.
36. If the development agreement was not approved, the signs would need to be re-evaluated in light of the standards of the Wasatch County Code and the requirements of RLUIPA.
37. The Development Review Committee has reviewed the project and forwarded the item for planning commission consideration and council decision.
38. The proposed legislative development agreement adopts the project as proposed. The development agreement adopts the design guidelines, the building height, the massing, the parking, the exterior lighting and hours of operation, the cooperative agreement (MOU) regarding center street, the ridgeline analysis, the flood zone, the southern boundary property issues, the regional trail, the maintenance obligations, the signs, the process for approving the project, the land use authority for the project, the temple and the height as an approved use, payment of fees, bonding, storm water management, maintenance of trails, among other things contained therein.
39. The development agreement explains the rationale for many of the matters addressed therein. The council hereby adopts the recitals of the development agreement, and the body of the development agreement, as findings for those matters addressed therein.
40. Ordinance 23-16 authorizes the adoption of the development agreement. The council adopts Ordinance 23-



41. This staff report and the presentations made by staff during the public meetings are hereby incorporated into these findings.

### **RECOMMENDED CONDITIONS**

1. Where parking is adjacent to residential uses, trees must be spaced no greater than 25' apart.
2. The temple lighting is easily adjustable. Grounds and building lighting must be maintained at the levels shown and approved by the County Council and in the development agreement. "Light creep" cannot occur over time.
3. The presented lighting plan shows 22 candelas per square meter at the brightest spot. County code allows up to 27 candelas per square meter. The lighting plan submitted, reviewed, vetted in public hearings and approved by the legislative body must be the final plan used in the field and be consistent with the limits approved.
4. Lower light poles at the west façade so that height to luminaire or light source is not higher than 15' as required by code.
5. Any changes made by the council in their approval of the application shall be reflected in the development agreement to the satisfaction of the county manager with input from legal and planning staff, before execution.
6. The Development Agreement shall be executed by the County and the Applicant, prior to any final plats being recorded.
7. The final plat shall be recorded in accordance with WCC 16.01.16 – Expirations of Application or Approvals. In the event that there is litigation between the County and a third party or the applicant and a third party regarding this approval, that prohibits the County or the applicant from recording the final plat, the times of WCC 16.01.16 shall be tolled for the reasonable duration of the litigation. This shall not be interpreted to imply that litigation regarding this approval would, in itself, prohibit or prevent a final plat from being recorded.

### **ALTERNATIVE ACTIONS**

The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission should state new findings.

1. Recommend Approval. This action may be taken if the Planning Commission finds that the Final Site Plan is compliant as proposed with Wasatch County Code and all other applicable ordinances.
2. Recommend Approval with Conditions. This action can be taken if the Planning Commission feels comfortable that remaining issues can be resolved subject to the conditions noted and review of the County Council. ***\*This action would be consistent with staff analysis\****
3. Continue. This action can be taken if the Planning Commission needs additional information before making a recommendation, if there are issues that have not been resolved, or if the application is not complete.
4. Recommend denial. This action can be taken if the Planning Commission finds that the proposal does not meet applicable codes and/or ordinances.

## **EXHIBITS**

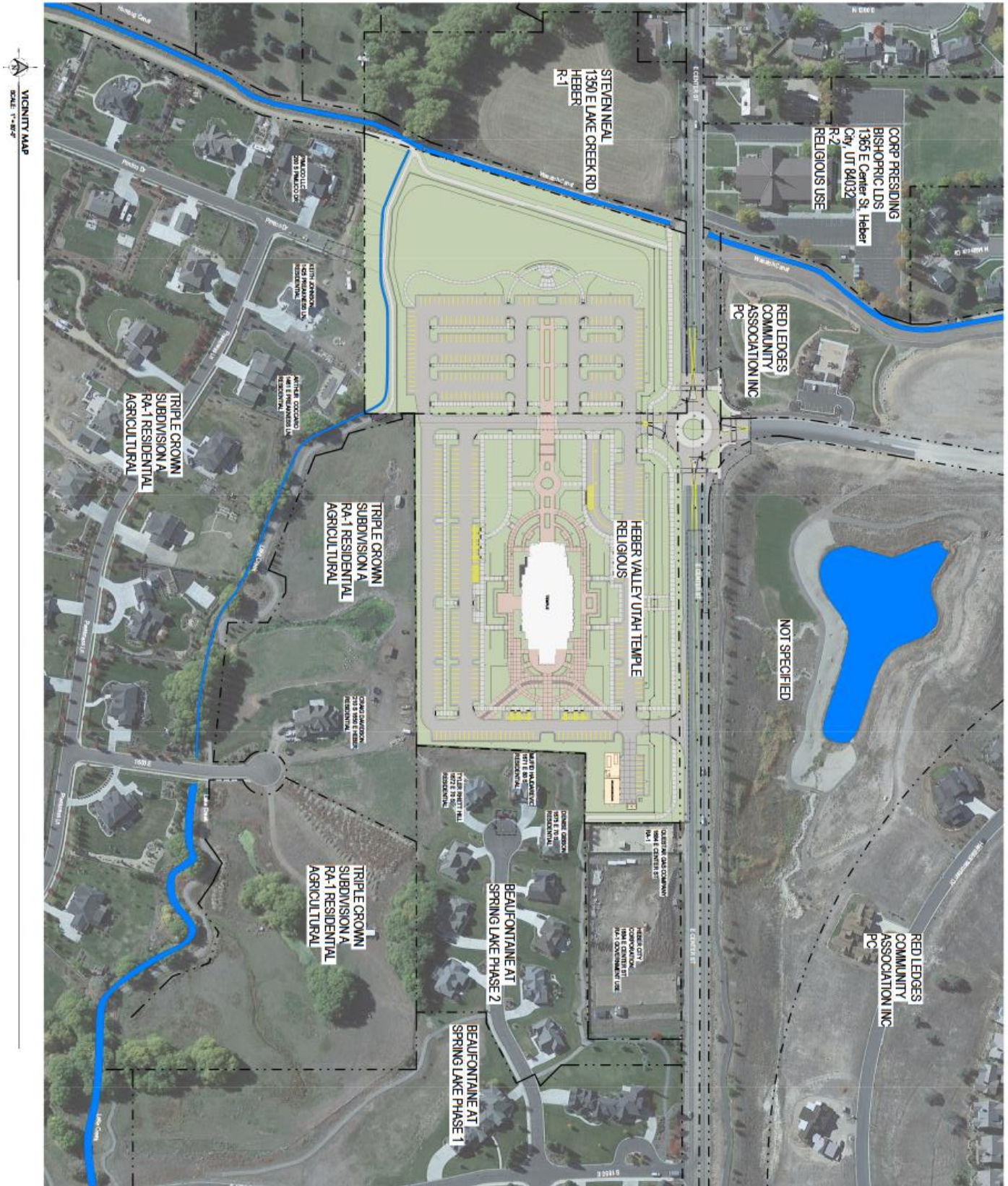
- A. Vicinity Plan
- B. Site Plan and context
- C. Summary tabulations
- D. Subdivision plat with road dedication
- E. Subdivision plat showing floodplain and floodway
- F. Off-site road improvements
- G. Site plan with setbacks
- H. Maintenance building and chiller noise study
- I. Trail connection points and trail plan
- J. Landscape plan and fence/wall location plan
- K. Wall/fencing plan renderings
- L. Architectural renderings, building heights and color palette
- M. Lighting plan and review comments
- N. No rise certification study
- O. Heber City traffic review letter
- P. DRC (Development Review Committee) Report
- Q. Fiscal Review by Attorney and Clerk
- R. Heber City MOU
- S. Legislative Development Agreement

**EXHIBIT A – Vicinity Plan**





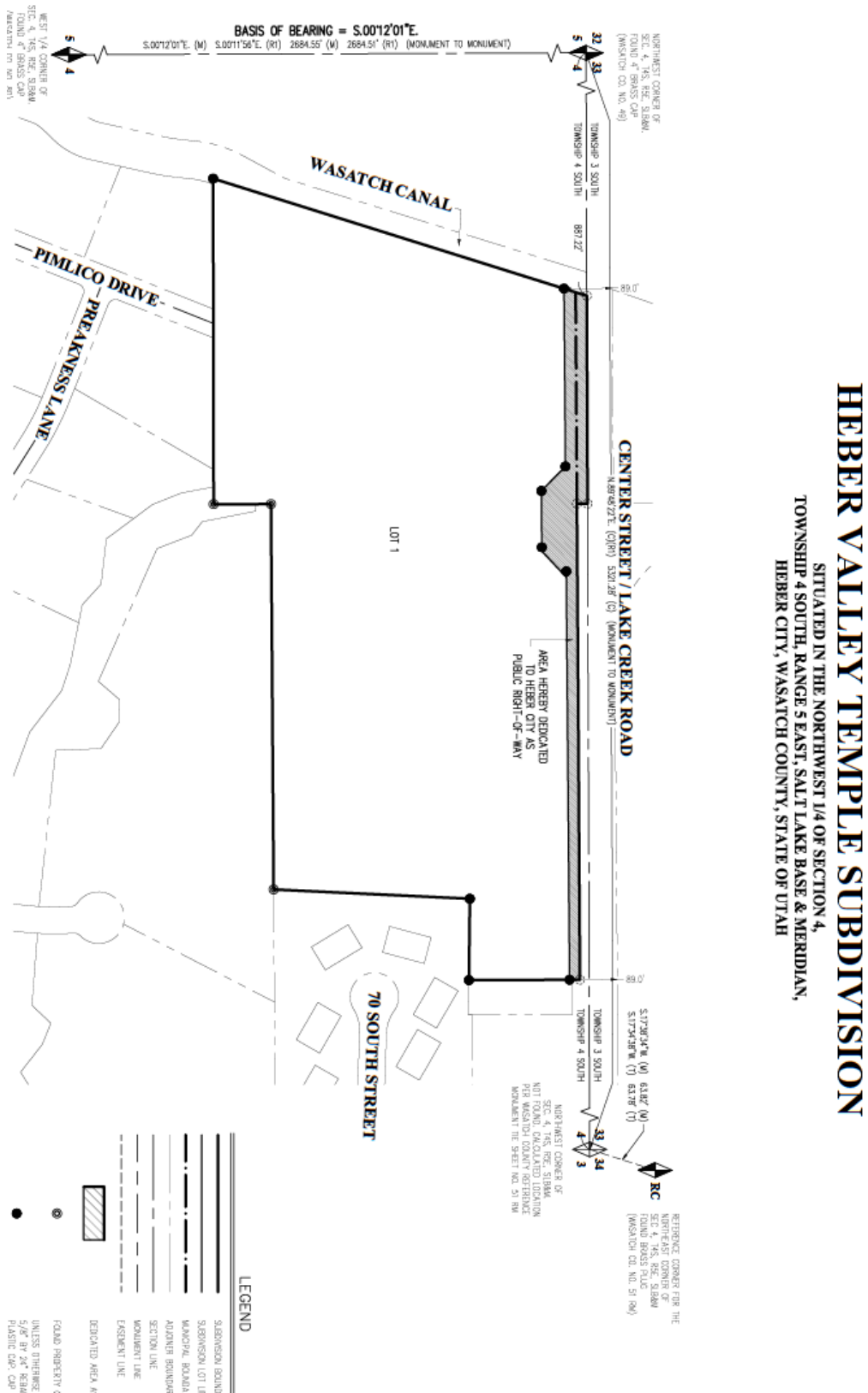
# EXHIBIT B – Site Plan and context



**EXHIBIT C- Summary tabulations**

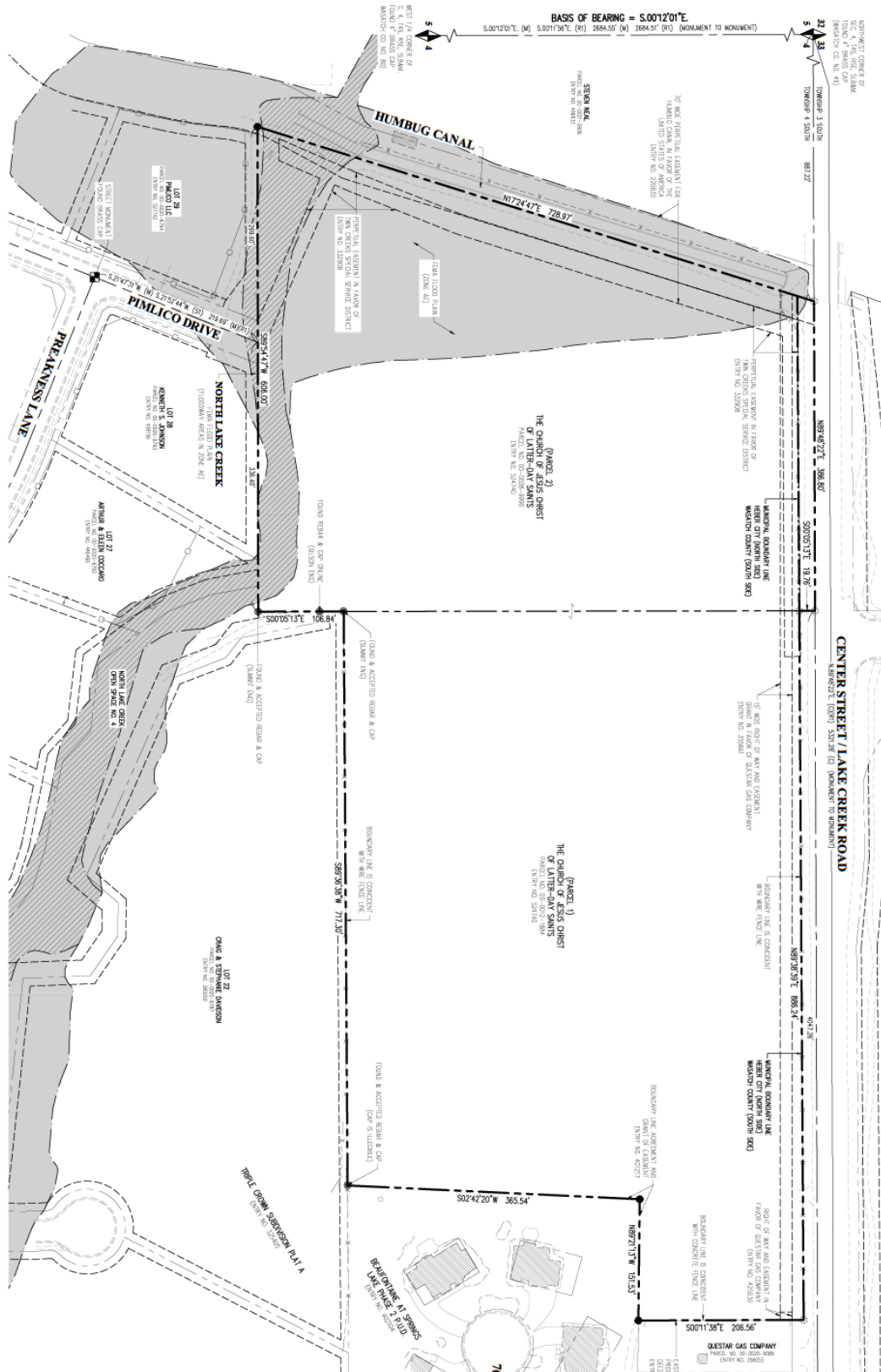
SUMMARY TABULATION		
TOTAL ACREAGE:	18.17 ACRES/ 791,485 SF	
NORMAL PARKING STALLS	432	
ACCESSIBLE PARKING STALLS	23	
TOTAL PARKING STALLS	455	
BUILDING FOOTPRINT:	26,089 SF	
SUB BASEMENT	1,340 SF	
BASEMENT	21,507 SF	
1ST FLOOR	21,278 SF	
2ND FLOOR	21,262 SF	
3RD FLOOR	19,650 SF	
TOTAL BUILDING	87,626 SF	
GROUPS BUILDING	1,933 SF	
CHILLER AND GENERATOR ENCLOSURE	1,861 SF	
TRASH ENCLOSURE	234 SF	
SITE PERCENTAGES	%	ACREAGE/ SF
LANDSCAPE	44%	7.58 ACRES/ 330,334 SF
HARDSURFACE	48%	8.21 ACRES/ 357,896 SF
BUILDINGS	4%	0.69 ACRES/ 29,883 SF
UNDISTURBED AREA	4%	0.75 ACRES/ 32,425 SF
TOTALS	100%	17.23 ACRES/ 750,538 SF

EXHIBIT D – Subdivision plat with road dedication

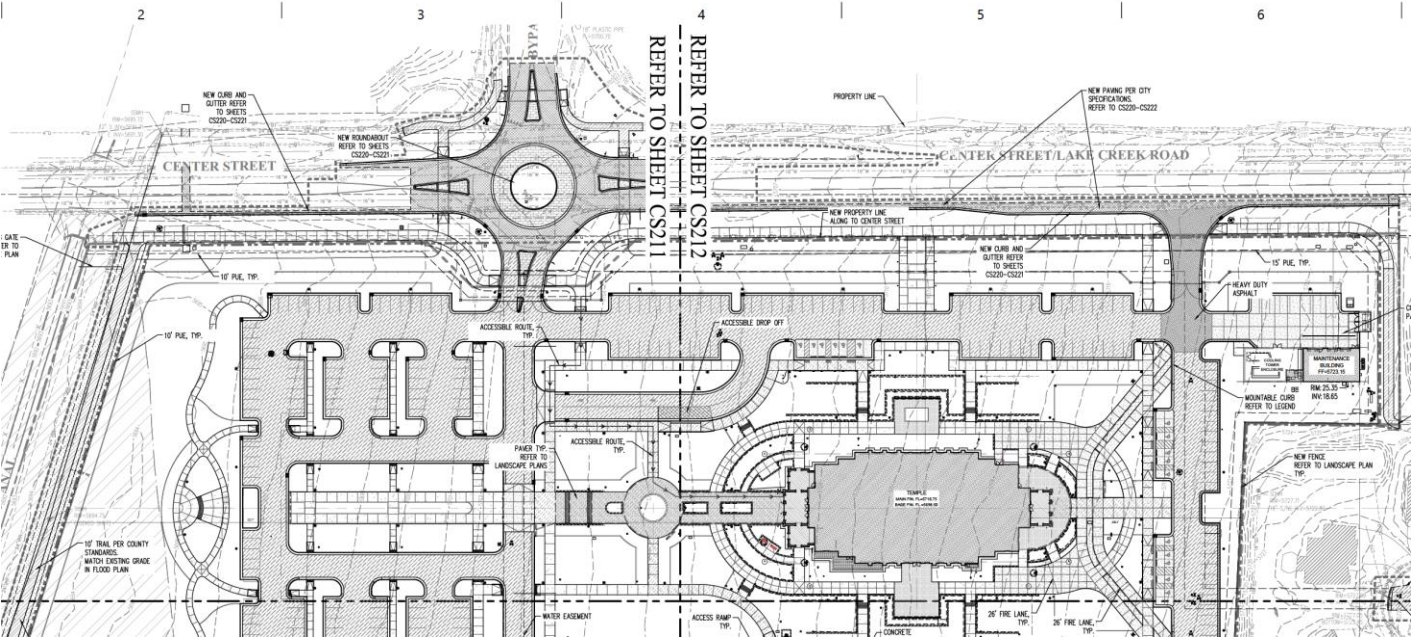




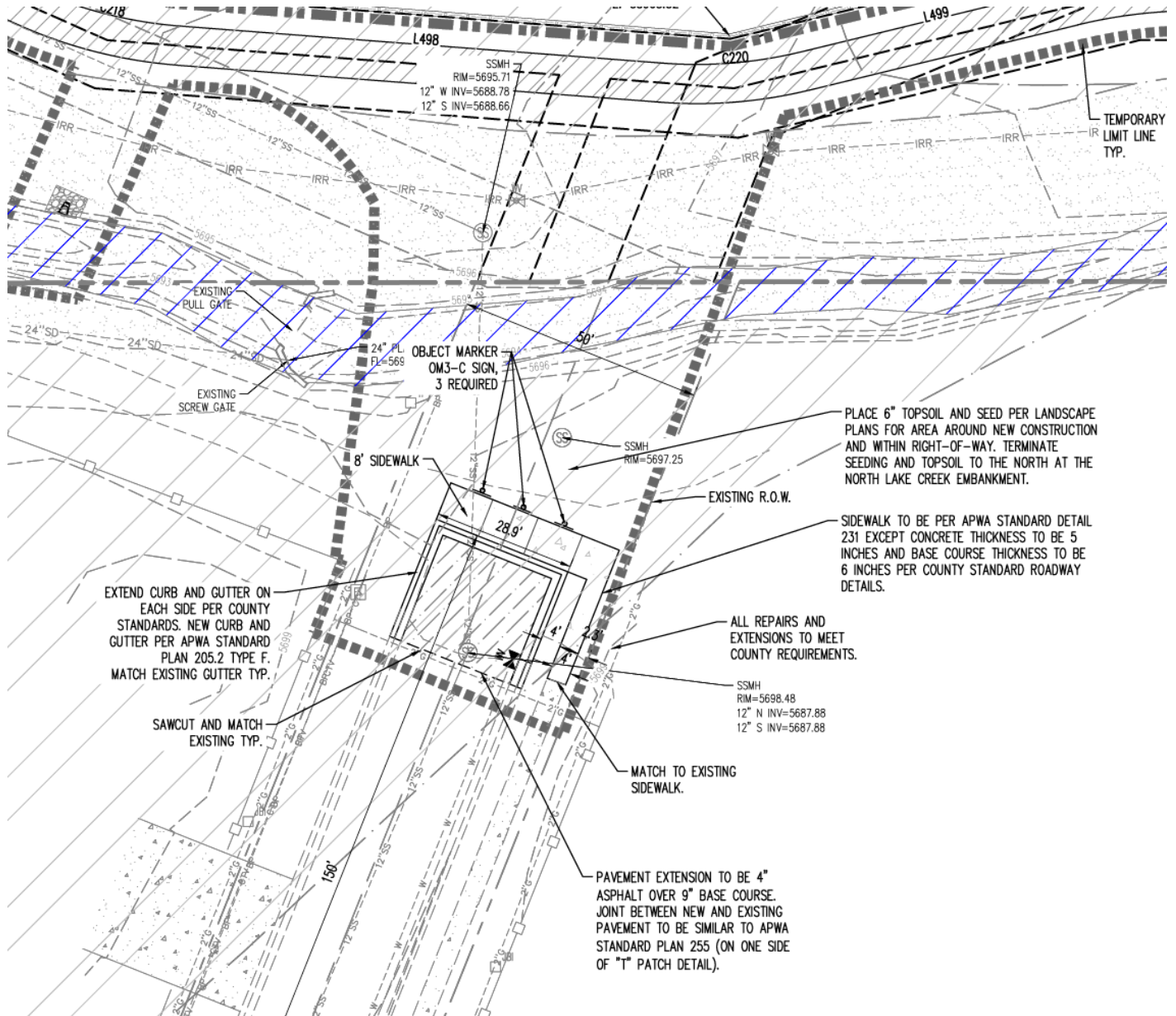
# **EXHIBIT E – Subdivision plat showing floodplain and floodway**



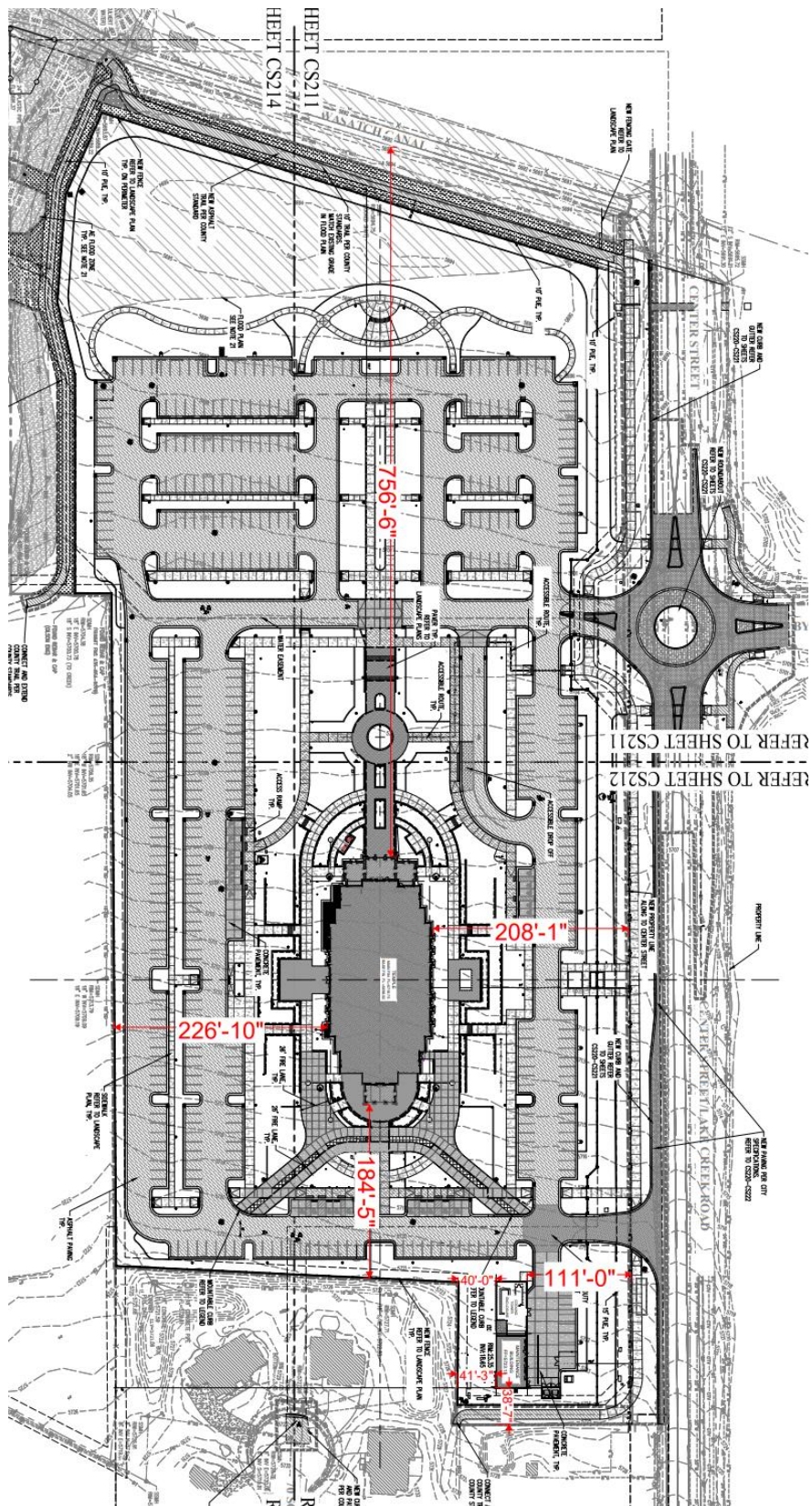
**EXHIBIT F – Off site road improvements**







**EXHIBIT G – Site plan with setbacks**



## EXHIBIT H- Maintenance building chiller noise study



**ENVISION™**  
ENGINEERING

MEMO

### MEMO – Outdoor Chiller Noise Level Study and Estimate (updated)

**To:** Jason Sandburg  
**Company:** CORE Architecture, LLC  
**Address:** 233 South Pleasant Grove Blvd. Suite 105  
Pleasant Grove, Utah 84062  
**Date:** December 13, 2022  
**Project:** Heber Utah Temple

**From:** JiLu Feng  
**Phone:** 801-652-8521  
**Project #:** CMA22-017

#### Purpose of Study and Estimate

An outdoor cooling unit, such as an air-cooled chiller, creates noise around it and can disturb neighbors or occupants inside the temple.

The purpose of this study is to estimate the noise level at the property line of the adjacent neighborhood and the nearest exterior walls of the temple from the chiller.

Most city ordinance requires that the ambient noise level in a residential zone to be no more than 50 dBA from 10 PM to 7 AM. This level is our targeted noise level since the noise ordinance of the city of Heber cannot be obtained currently.

The levels of noise at the points of interest are affected by the chiller's noise, the distance between the chiller and the points of interest, the chiller enclosure, and acoustical treatments to the enclosure walls.

#### Noise Source:

The noise source is the chiller itself. Based on the manufacturer's specification, at 3 feet away from the chiller, the noise levels at different frequencies are:

Frequency	Hz	63	125	250	500	1,000	2,000	4,000	8,000	Over all dBA
	dB Level	97	94	91	87	85	77	72	65	90

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Parameters Used for The Estimates

1. The chiller:  
Manufacturer: Daikin  
Description: Chiller with Hush Guard Acoustical Panels on top and Hush Quilt<sup>™</sup> Acoustical Absorbers on Walls of the Chiller Enclosure  
Model number: AWW016B  
Chiller Height: 100"
2. Distances from the chiller to
  - a. the property line at 55'.
  - b. the nearest exterior wall of the temple: 246'.

Calculated Results

The noise levels are:

1. 46 dBA at the property line (at the ground level).
2. 34 dBA at the exterior wall (at the ground level) of the temple.

Notes and Recommendations:

1. The noise level at the property line is 46 dBA which is lower than the typical required 50 dBA.
2. The noise level at the nearest exterior wall of the temple is 34 dBA which is lower than the typical required 50 dBA.
3. The current chiller enclosure wall height of 12'-4" is used in the calculations.

## Calculated Results

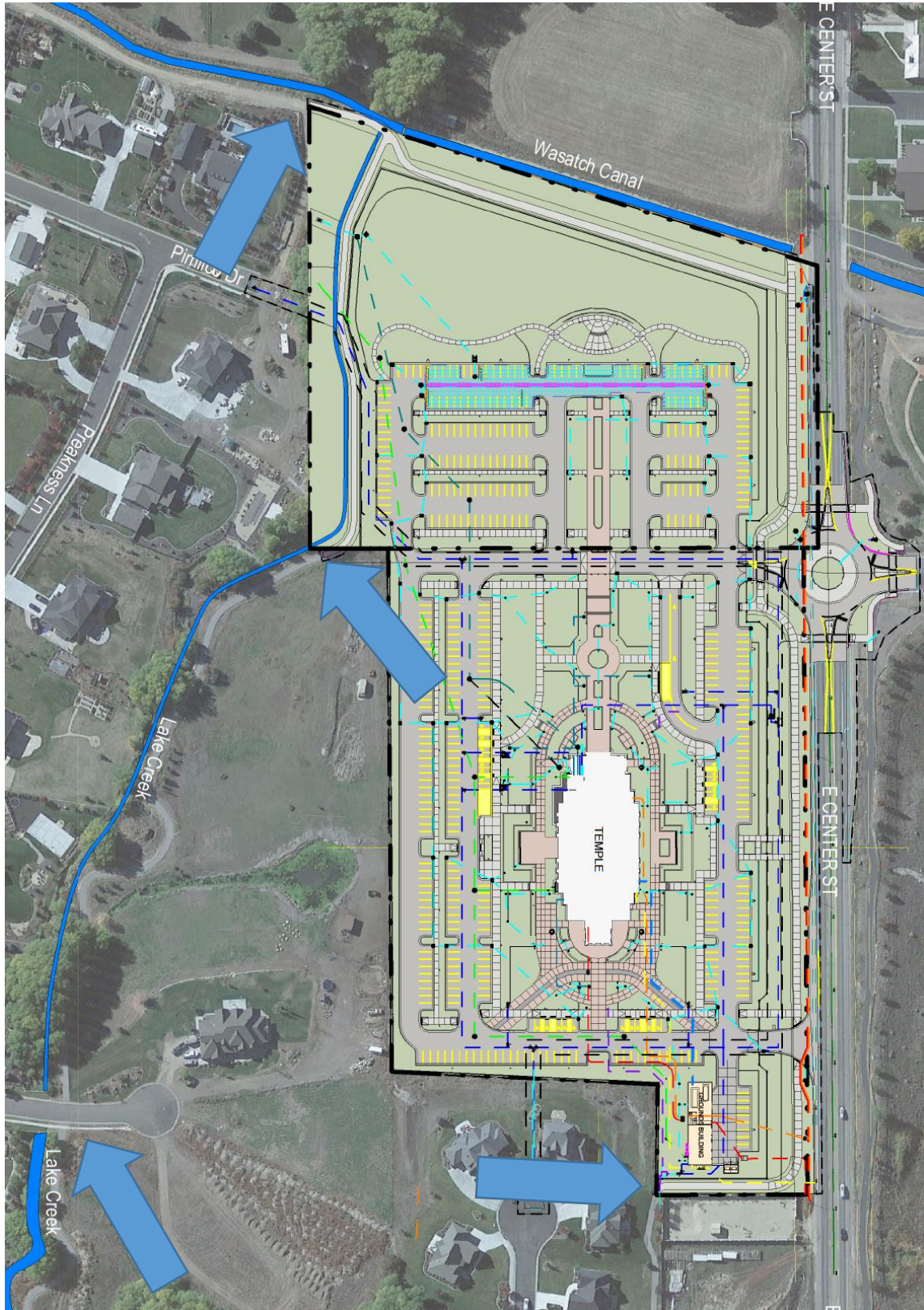
The noise levels are:

1. 46 dBA at the property line (at the ground level).
2. 34 dBA at the exterior wall (at the ground level) of the temple.

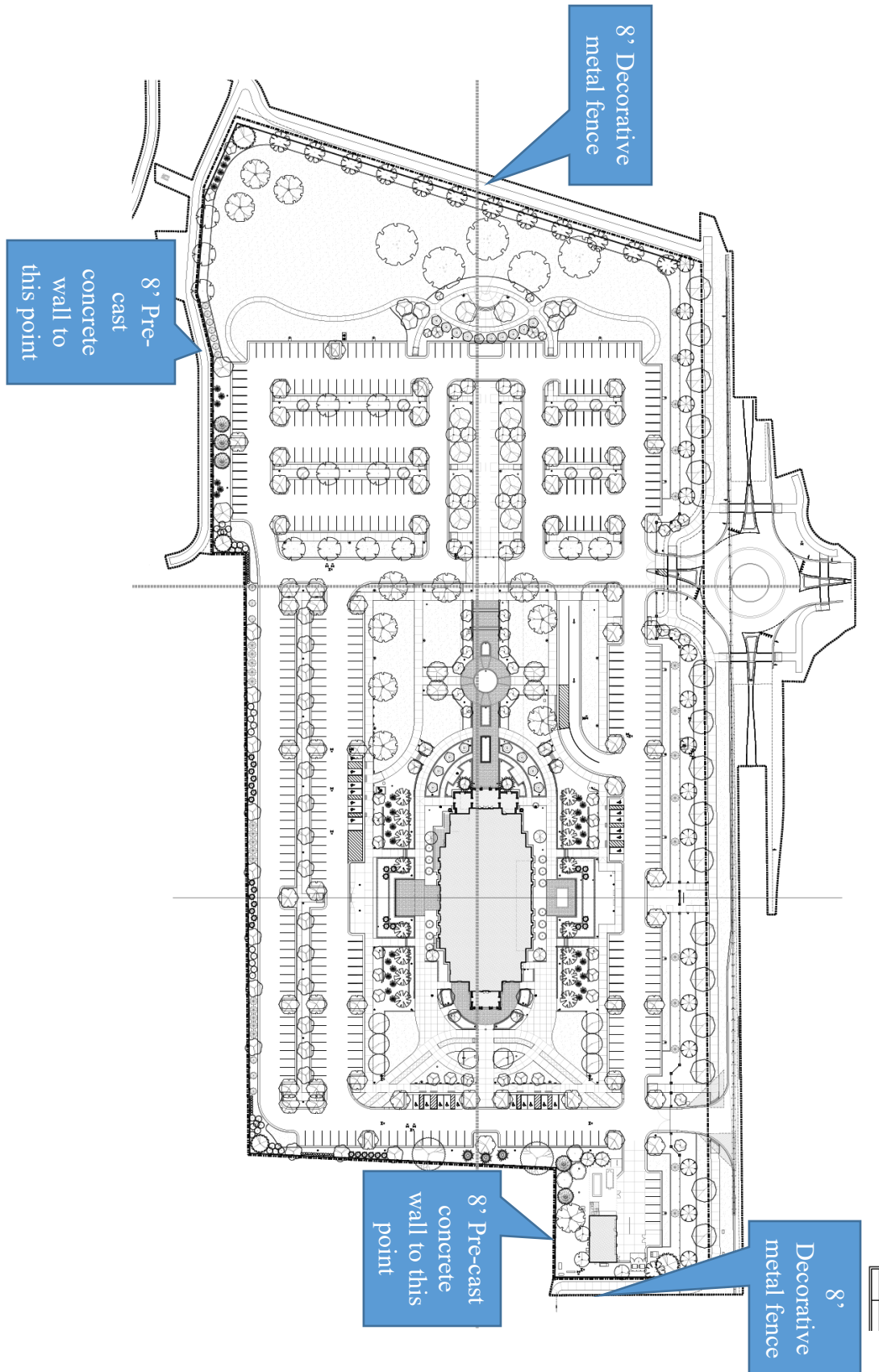




**EXHIBIT I – Trail connection points and trail plan**



**EXHIBIT J – Landscape plan and fence/wall location plan**





## DECIDUOUS TREE LEGEND

SYMBOL	BOTANICAL NAME/COMMON NAME	SIZE	MIN HEIGHT	QUANTITY
	ACER PLATANOIDES 'CRIMSON KING'	3" CALIPER	14'	2
	ACER PLATANOIDES 'CRIMSON SENTRY'	2-1/2" CALIPER	12'	8
	ACER PLATANOIDES 'KESTERSON'	2" CALIPER	8'	61
	ACER TATARICUM 'GARGANS'	3" CALIPER	8'	20
	AMELANCHIER X AUTUMN 'BRILLIANCE'	3" CALIPER	12'	3
	BETULA OCCIDENTALIS 'FONTINALIS'	3" CALIPER	12'	4
	CELTIS OCCIDENTALIS 'CHICAGO LAND'	3" CALIPER	12'	16
	CERCIS CANADENSIS 'EASTERN REDBUD'	3" CALIPER	14'	16
	CRATAEGUS CRUSGALLI 'THORNLESS'	3" CALIPER	14'	17
	FAGUS SYLVATICA 'PURPLE FOUNTAIN'	3" CALIPER	14'	6
	GINKGO BILIBA 'AUTUMN GOLD' (MALE)	3" CALIPER	14'	12
	OLESTRA TRICANTHOS 'INERMIS'	3" CALIPER	14'	4

## DECIDUOUS TREE LEGEND

SYMBOL	BOTANICAL NAME/COMMON NAME	SIZE	MIN HEIGHT	QUANTITY
	MAGNOLIA X SOULANGEANA 'SUSAN'	2" CALIPER	10'	12
	OLEA TRICANTHOS 'INERMIS'	2" CALIPER	14'	2
	MALUS KORENSIS 'PRAIRIE ROSE'	2" CALIPER	12'	19
	MALUS X 'SNO'	2" CALIPER	8'	8
	POPULUS TREMULA 'TRICOMA'	2" CALIPER	8'	32
	PRUNUS SARGENTII 'PINK PLAK'	2" CALIPER	12'	20
	PRUNUS SERRULATA 'KWANZAN'	2" CALIPER	14'	32
	PRUNUS SUBHIRTELLA 'SNOW FOUNTAIN'	2" CALIPER	12'	4
	QUERCUS BICOLOR 'SWAMP WHITE OAK'	2" CALIPER	16'	5
	SORBUS AUCUPARIA 'CARDINAL ROYAL'	2" CALIPER	8'	13
	SYRINGA RETICULATA 'SNOW CAL'	2" CALIPER	12'	18
	TILIA CORDATA 'GREEN SPIRIT'	2" CALIPER	14'	13
	ULMUS X 'MORTON'	2" CALIPER	16'	10

## EVERGREEN TREE LEGEND

SYMBOL	BOTANICAL NAME/COMMON NAME	SIZE	MIN HEIGHT	QUANTITY
	ABIES CONCOLOR 'WHITE FIR' (SELECT FOR GREEN COLOR)	15" TALL	15'	2
	ABIES LASIOCARPA 'SUBALPINE FIR'	10" TALL	10'	3
	JUNIPERUS VIRGINIANA 'BLUE ARROW'	15" TALL	10'	35
	PICEA CANADENSIS 'WEeping NORWAY SPRUCE'	10" TALL	10'	2
	PICEA GLAUCA 'MORTONS TOWER'	10" TALL	10'	2
	PICEA PUNGENS 'BLUE TOTEM'	6" TALL	6'	13
	PICEA PUNGENS 'COLORADO GREEN'	12" TALL	12'	5
	PICEA PUNGENS 'BABY BLUE EYES'	6" TALL	6'	39
	PINUS BUNGEANA 'SILVER GHOST'	15" TALL	15'	2
	PINUS STROBUS 'AUTUMN GOLD'	15" TALL	15'	4
	PINUS STROBUS 'ARNOLD'S SENTINEL'	10" TALL	10'	32
	PINUS STROBUS 'OREGON GREEN'	10" TALL	10'	30

## PLANT SIZING NOTE

- THE DESIGN INTENDS TO INSTALL A LANDSCAPE THAT HAS A MORE MATURE LOOK ONCE INSTALLATION IS COMPLETED. IN ORDER TO ACCOMPLISH THIS, THE LANDSCAPE ARCHITECT INTENTIONALLY CALLED OUT LARGER POT AND CALIPER SIZES ON PLANTS AND TREES TO ACHIEVE THIS GOAL. IF PLANT AND TREE SIZES ARE NOT AVAILABLE IN THE SIZES LISTED IN PLANTING LEGENDS, THE CONTRACTOR SHALL FOLLOW THE DESIGNER'S RECOMMENDATION.
- CONTRACTOR SHALL PURCHASE THE LARGEST AVAILABLE SIZE OF SPECIFIED PLANT MATERIAL WITHIN 90 DAYS OF AWARD OF CONTRACT AND THEN UTILIZE THEM TO THE SPECIFIED CONTAINER IN ORDER TO LET THEM GROW AND MATURE DURING CONSTRUCTION OF THE TEMPORARY. COORDINATE THESE PLANTS WITH THE LANDSCAPE ARCHITECT THROUGH THE SUBMITTAL PROCESS.
- AT TIME OF PLANTING, TREES/PLANTS MUST MEET THE NURSERY STANDARD PLANT SIZE FOR THE SIZES SPECIFIED IN THE LEGEND. CONTRACTOR SHALL WATER AND FERTILIZE PURCHASED NURSERY STOCK AS NECESSARY UNTIL PLANTS ARE INSTALLED.
- A PLANT HOLDING AREA SHALL BE ESTABLISHED IN AN AREA TO BE DESIGNATED BY THE OWNER PRIOR TO CONSTRUCTION AS WELL AS COORDINATION OF A TEMPORARY IRRIGATION FOR SAID PLANT MATERIAL.

## DECIDUOUS SHRUB LEGEND

SYMBOL	BOTANICAL NAME/COMMON NAME	SUNSHADE	FLOW COLOR	BLOOM TIME	SIZE	QTY.
	BERBERIS THUNBERGII 'BAGATELLE'	FSN	N/A	N/A	5 GALLON	47
	CORNUS ALBA 'BAILEI'	FSN/PSH/SH	WHITE	LATE	5 GALLON	38
	CORNUS SERICEA 'BAILIADE'	FSN/PSH/SH	WHITE	L.S.	5 GALLON	68
	CORNUS SERICEA 'RED ZEST'	FSN/PSH/SH	WHITE	L.S.	5 GALLON	33
	FORSYTHIA X 'GOLD TIDE'	FSN/PSH	YELLOW	RS	5 GALLON	263
	FORSYTHIA X 'YELLOW GOLD'	FSN/PSH	YELLOW	RS	5 GALLON	40
	HIBISCUS SYRIACUS 'BLUE SATIN'	FSN/PSH	ROYAL BLUE	SUM F	5 GALLON	9
	HYDRANGEA ARBORESCENS 'ARCTOSTAPHYLOS'	FSN/PSH	WHITE	SUM	5 GALLON	11
	HYDRANGEA ARBORESCENS 'NIKKA'	FSN/PSH	PINK/MAUVE	SUM F	5 GALLON	10
	ILEX CORNUTA 'EMERALD MOUND'	FSN/PSH	YELLOW/WHITE	SUM	5 GALLON	164
	PHYSOCARPUS OPULIFOLIUS 'MIDDA'	FSN	WHITE/PINK	S-SUM	5 GALLON	34
	PHYSOCARPUS OPULIFOLIUS 'SMOKEY'	FSN	PINK	S-SUM	5 GALLON	47
	PRUNUS BESSEYI 'TRILL'	FSN/PS	WHITE	S-SUM	5 GALLON	330
	RHUS TYPHINA 'AUTUMN AMBER'	FSN/PSH	N/A	N/A	5 GALLON	103
	RISES ALPINUM 'GREEN MOUND'	FSN/PSH	N/A	N/A	5 GALLON	44
	ROSA X 'MENDOCOTT'	FSN	AFRICOT/PINK	S-F	5 GALLON	283
	ROSA X 'MENDOCOTT'	FSN	WHITE	S-F	5 GALLON	209
	ROSA X 'NAVY LADY'	FSN	RED	S-F	5 GALLON	260
	SAMBUCUS NIGRA 'EVA'	FSN/PS	PINK	S-SUM	5 GALLON	39
	STRABAX 'BAILIADE'	FSN	LIGHT PINK	SUM	5 GALLON	266
	STRABAX 'BAILIADE'	FSN/PSH	RED	SUM	5 GALLON	490
	SYRINGA 'JESSE'	FSN	LAVENDER/PINK	S-SUM	5 GALLON	151
	SYMPHORICARPOS ALBUS 'COMMON SNOWBERRY'	FSN/PSH	PINK	S	5 GALLON	99
	VIBURNUM OPULUS 'NANUM'	FSN/PSH	N/A	N/A	5 GALLON	248
	VIBURNUM CARLESII 'MOYCE'	FSN/PSH	BLUSH PINK	S	5 GALLON	95
	VIBURNUM TRILOBUM 'BAILIADE'	FSN/PSH	WHITE	S	5 GALLON	60

## EVERGREEN SHRUB LEGEND

SYMBOL	BOTANICAL NAME/COMMON NAME	SUNSHADE	FLOW COLOR	BLOOM TIME	SIZE	QTY.
	JUNIPERUS PROCUMBENS 'GREEN MOUND'	FSN/PS	N/A	N/A	5 GALLON	36
	JUNIPERUS HORIZONTALIS 'WILTON'	FSN	N/A	N/A	5 GALLON	99
	MAHONIA REPENS 'OREGON GRAPE'	FSN/PSH/SHADE	N/A	N/A	5 GALLON	415
	PICEA PUNGENS 'GLAUCA'	FSN	N/A	N/A	5 GALLON	12
	PICEA PUNGENS 'GLAUCA'	FSN	N/A	N/A	5 GALLON	5
	PICEA MUGHO 'MUGHO MOUND'	FSN	N/A	N/A	5 GALLON	11
	TAXUS X 'EVERLO'	FSN/PSH/SHADE	N/A	N/A	5 GALLON	254
	TAXUS CUSPIDATA 'NANA'	FSN/PSH/SHADE	N/A	N/A	5 GALLON	209

## ORNAMENTAL GRASSES LEGEND

SYMBOL	BOTANICAL NAME/COMMON NAME	SIZE	QTY.
	HELICTOTRICHON SEMPIPERNUM 'BLUE OATS'	1 GALLON	100
	PANICUM VIRGATUM 'HOT ROD'	1 GALLON	53

## ANNUALS AND PERENNIALS

SYMBOL	BOTANICAL NAME/COMMON NAME	SUNSHADE	FLOW COLOR	BLOOM TIME	SIZE	QTY.
	ACHILLEA 'MILLEFOLIUM'	FSN/PSH	PEACH	SUM	1 GALLON	66
	ARTEMISIA 'SCHMIDTIANA'	FSN/PSH	N/A	N/A	1 GALLON	22
	BELAMCANDA CHINENSIS 'FRECKLE FACE'	FSN	ORANGE	SUM	1 GALLON	40
	BERGENIA 'CORDIFOLIA'	FSN/PSH	PINK	SF	1 GALLON	10
	ECHINACEA 'PURPUREA'	FSN	PINK/PURPLE	SUM F	1 GALLON	67
	GERANIUM 'JOHNSON'S BLUE'	FSN/PSH	BLUE/VIOLET	SUM F	1 GALLON	14
	HEMEROCALLIS 'AFRIROT'	FSN/PSH	PALE ORANGE	SUM	1 GALLON	439
	RUDBECKIA 'ALL THAT GLITTERS'	FSN	YELLOW	SUM F	1 GALLON	73
	SALVIA 'NEMOROSA'	FSN	PURPLE	S-SUM	1 GALLON	264
	SCARIOSA 'COLUMBIANA'	FSN	VIOLET/LILAC	SUM	1 GALLON	38

\*\*ANNUAL FLOWER CONTRACTOR TO PROVIDE DESIGN (INCLUDING PLANT TYPE AND COLOR SELECTION) AND SHALL BE COORDINATE WITH LANDSCAPE ARCHITECT PRIOR TO INSTALLATION AND SUBMITTAL TO OWNER. CONTRACTOR SHALL PROVIDE THE FLOWER PLANTING DESIGN AND SCHEDULE TO OWNER AND LANDSCAPE ARCHITECT FOR FINAL APPROVAL. IF PLANTING OCCURS IN FALL/WINTER PROVIDE APPROPRIATE BULBS AND OTHER WINTER COOL SEASON BULBS FOR ALL ANNUAL PLANTING BED LOCATIONS.

## GROUNDCOVERS LEGEND

SYMBOL	BOTANICAL NAME/COMMON NAME	SIZE	AREA S.F.
	ALLIUM WULFENIANUM 'GOLDEN SPRING'	FLATS OF 36 12" O.C.	1,394 S.F.
	FRAGARIA X 'LIPSTICK'	FLATS OF 36 12" O.C.	2,488 S.F.
	LAVANDULA ANGUSTIFOLIA 'SUPERBLUE'	FLATS OF 36 12" O.C.	363 S.F.
	VERONICA PENDUNCULATA 'GEORGIA BLUE'	FLATS OF 36 12" O.C.	1,353 S.F.
	KENTUCKY BLUE GRASS MIX PER STRIPS	SOD ROLLS	PER PLANS
	KENTUCKY BLUE GRASS MIX WITH STRUCTURAL SOIL	SOD ROLLS	PER PLANS

\*\*TULIP BULBS TO BE PLANTED IN ALL ANNUAL FLOWER BEDS AT A RATE OF 5 BULBS PER SQ. FT. OR APPROX. 2" APART. BULBS TO BE PLANTED BY LATE SEPTEMBER OR OCTOBER WHEN THE SOIL TEMPERATURE REACHES 60° F. BULBS SHALL BE PLANTED AT 7" DEPTH TO ALLOW FOR ANNUAL FLOWER PLANTING OVER THE TOP OF THE BULBS EACH YEAR WITHOUT DAMAGING THE TULIPS. DEPENDING ON COMPLETION TIME OF THE PROJECT, BULBS MAY OR MAY NOT BE ABLE TO BE PLANTED BEFORE THE OPEN HOUSE AND DEDICATION. PROVIDE OWNER WITH A BID ALTERNATE TO PLANT TULIP BULBS. ALL TULIP BULBS SHALL BE A MIN. OF 1/2" IN SIZE. FERTILIZE AND WATER PER MANUFACTURER'S INSTRUCTIONS.

\*\*ANNUAL FLOWER BED DESIGN (INCLUDING BULB COLOR SELECTION) TO BE PROVIDED BY CONTRACTOR AND BE APPROVED BY OWNER AND LANDSCAPE ARCHITECT PRIOR TO INSTALLATION. CONTRACTOR SHALL PROVIDE A FLOWER PLANTING DESIGN AND SCHEDULE TO OWNER AND LANDSCAPE ARCHITECT FOR APPROVAL.

NOTE: QUANTITIES IN PLANT LEGENDS ARE FOR INFORMATION ONLY. IF DISCREPANCIES EXIST, THE PLAN SHALL DICTATE QUANTITY OF TREES AND OTHER PLANTS TO BE PLANTED.

## ANNUAL NOTES

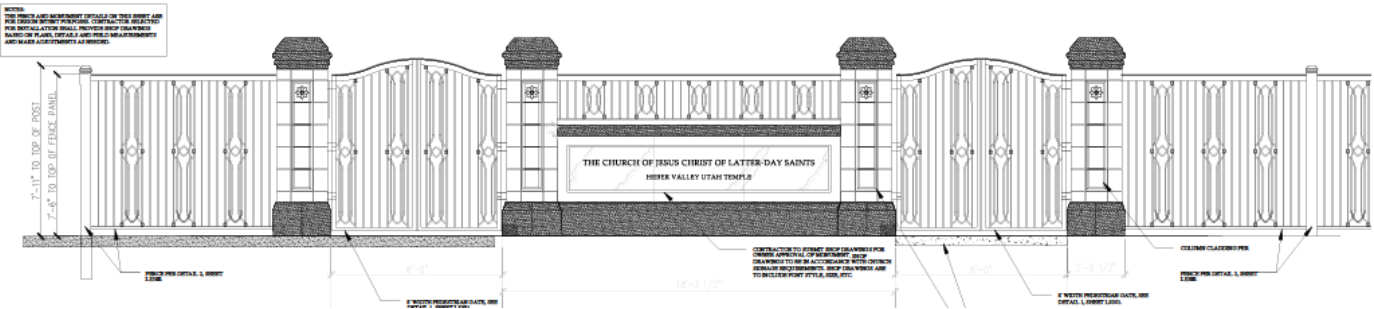
- PLANT LAYOUT SHOWN PREFERRED LAYOUT INCORPORATE FLOW AND/OR FLOWING AS
- USE NODES, INTERSECTING PLANT
- REST OF THE PLANTS
- AVOID FORMAL, REC.
- PLANT TYPES AND VARIETIES ARE USUAL PLANTS THAT MAY BE DATES, SMALL
- THESE PLANTS ARE TOGETHER, THEY VARY FROM ONE CONNECTIONS BE FAIRLY LOOSE AN GRASSY, STOK
- FILLER PLANTS - 4 ARE USUALLY LOP FOREGROUND OF BETWEEN THE CO PLANTS, THEY MA CHOSEN SHOULD 8 INCHES ON CEN INCLUDE VARIOUS LITER TO PONY P.



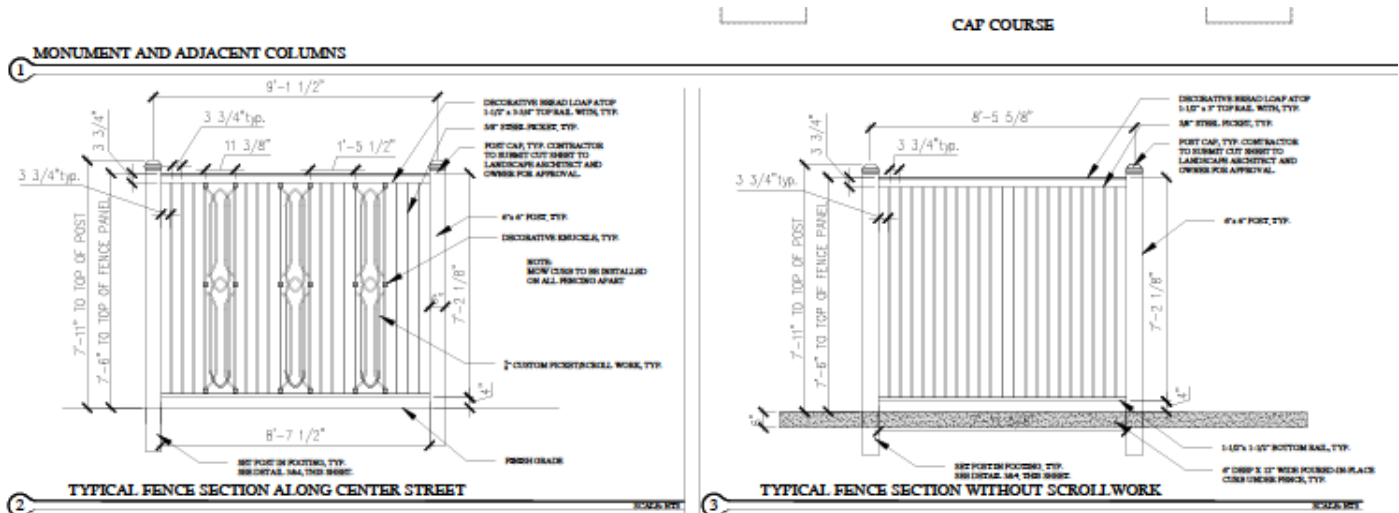
## EXHIBIT K- Wall/fencing renderings



Solid concrete wall adjacent to residential uses south and east sides.

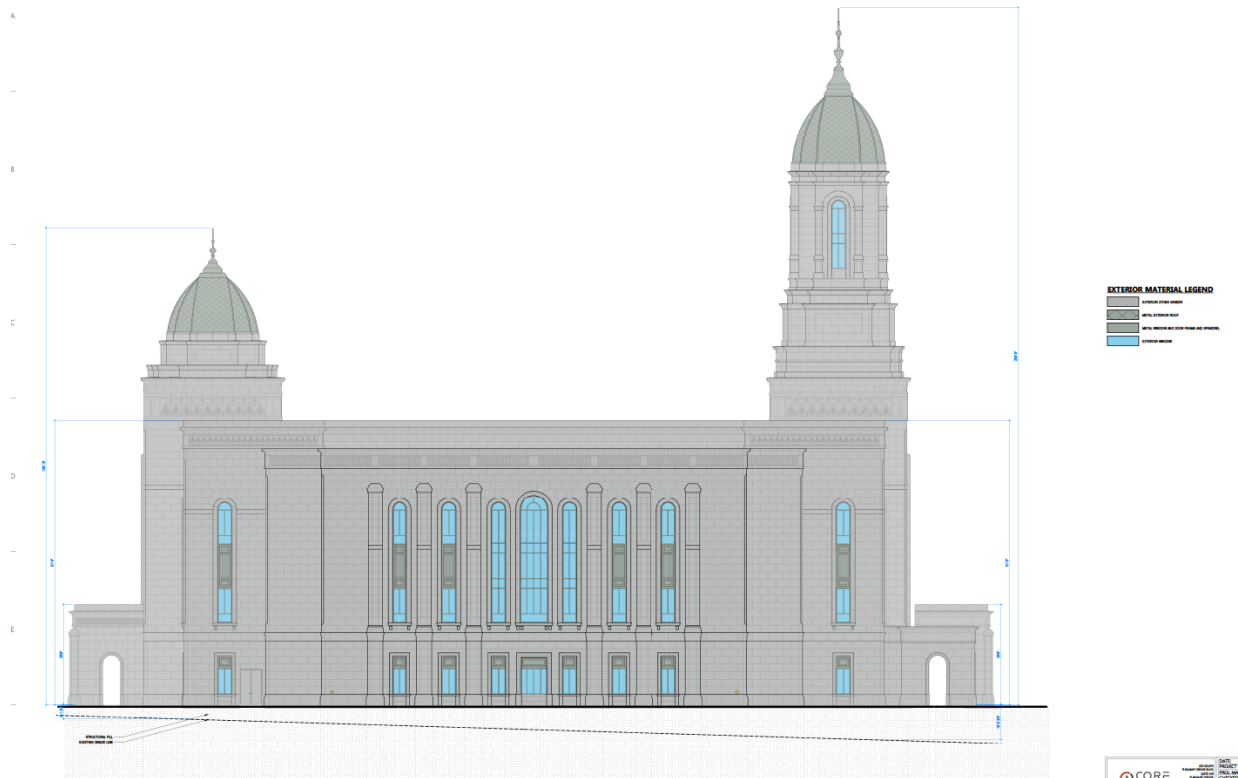
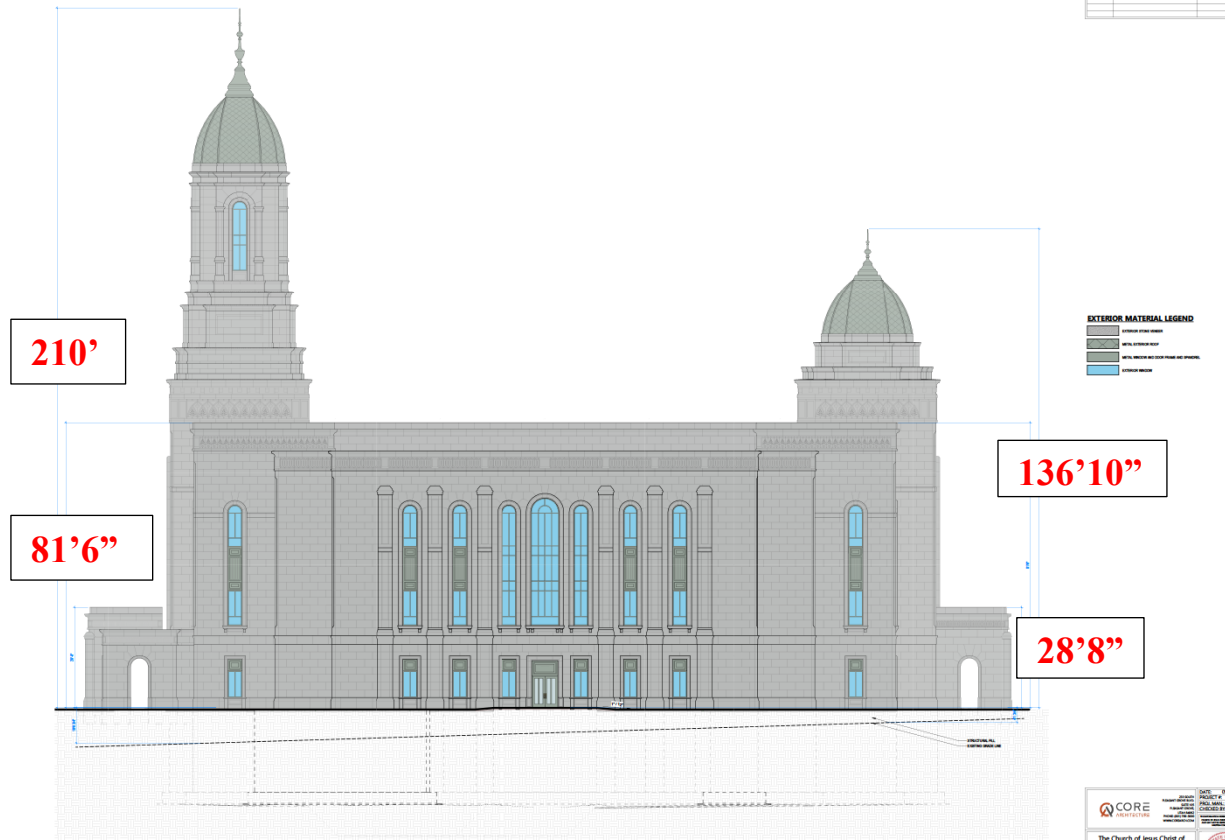


Decorative metal fence with columns north side

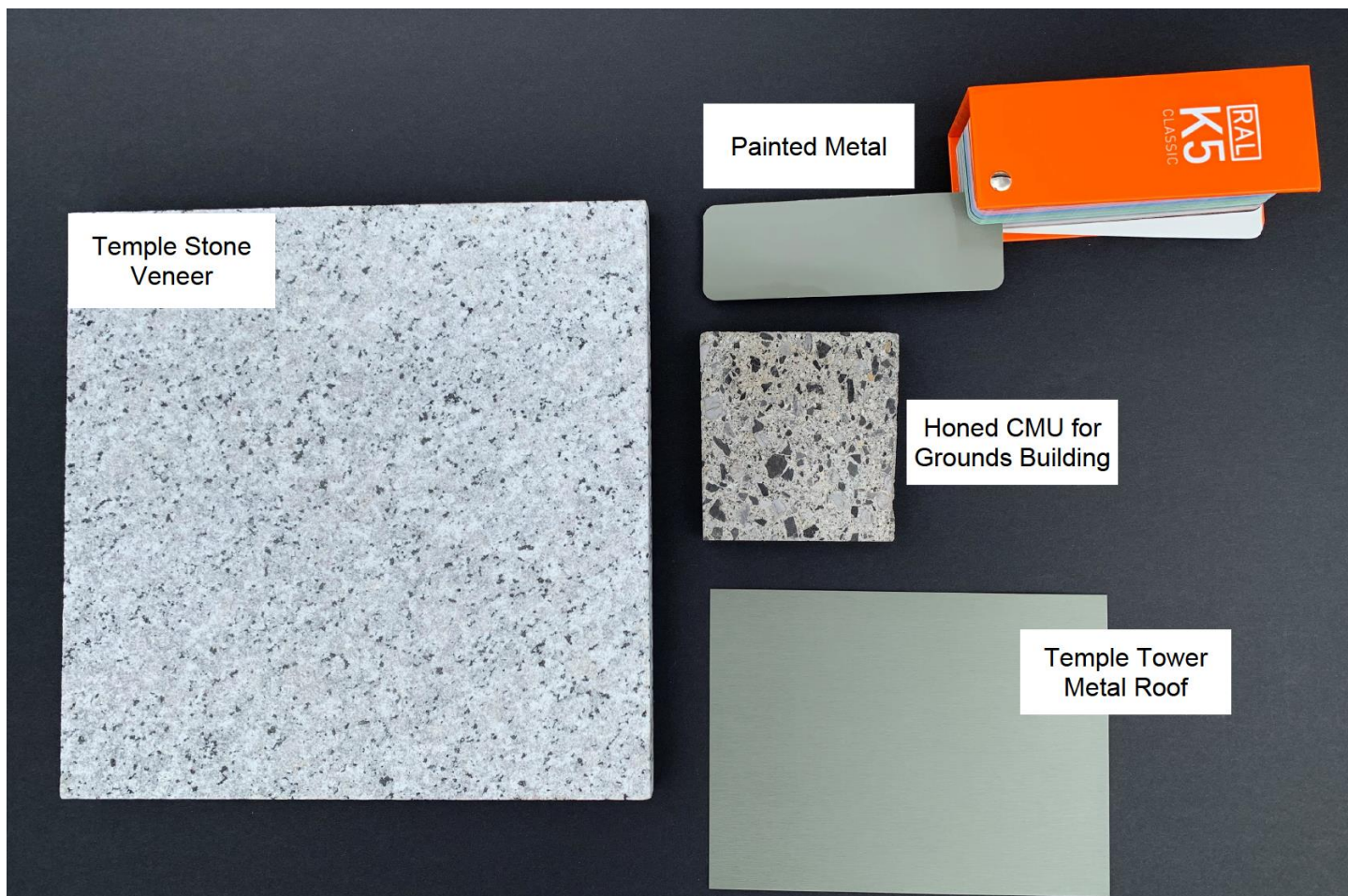


Fence without scroll work east side adjacent to the Questar gas sub-station and the west side

## EXHIBIT L – Architectural renderings, building height and color palette





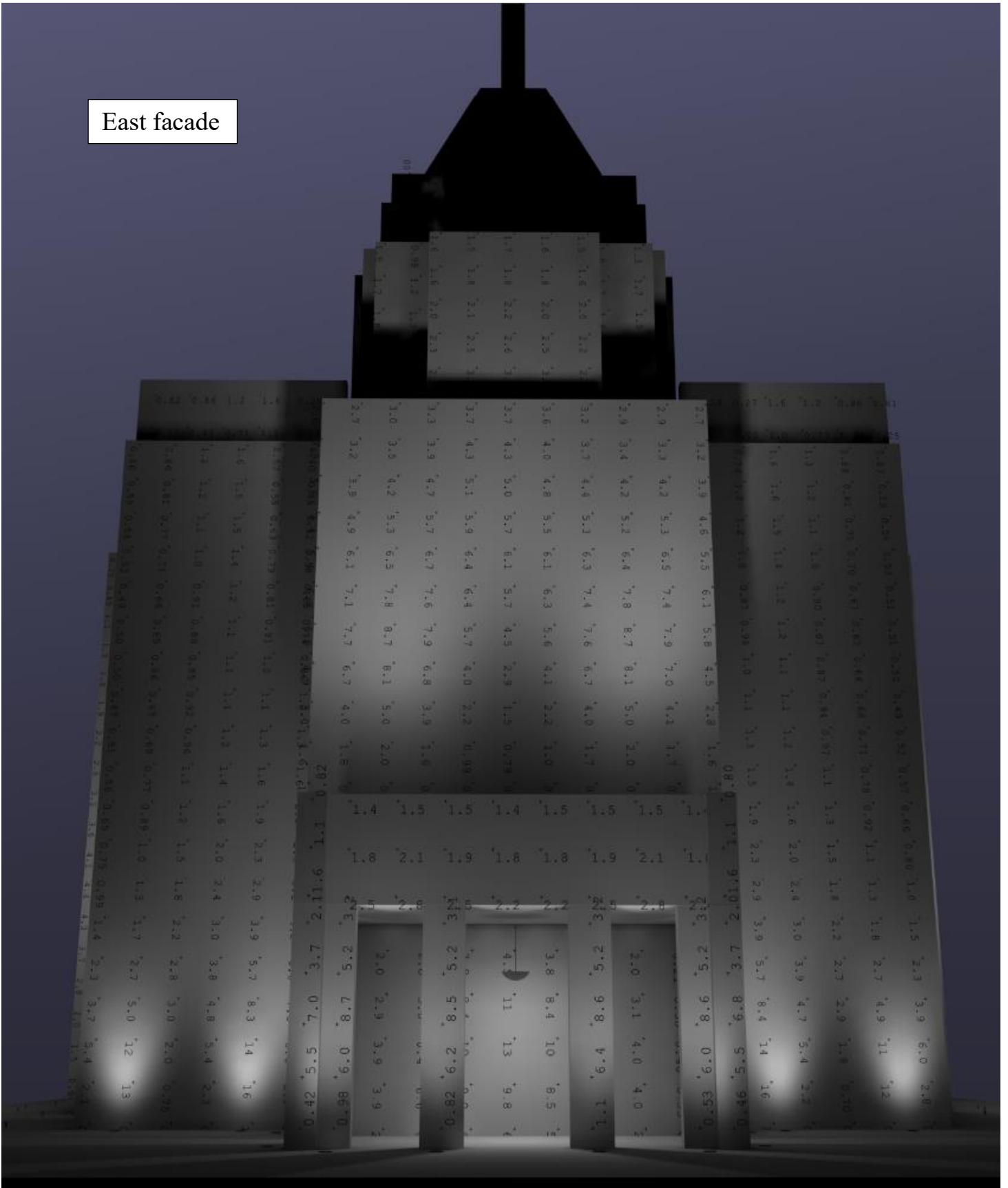


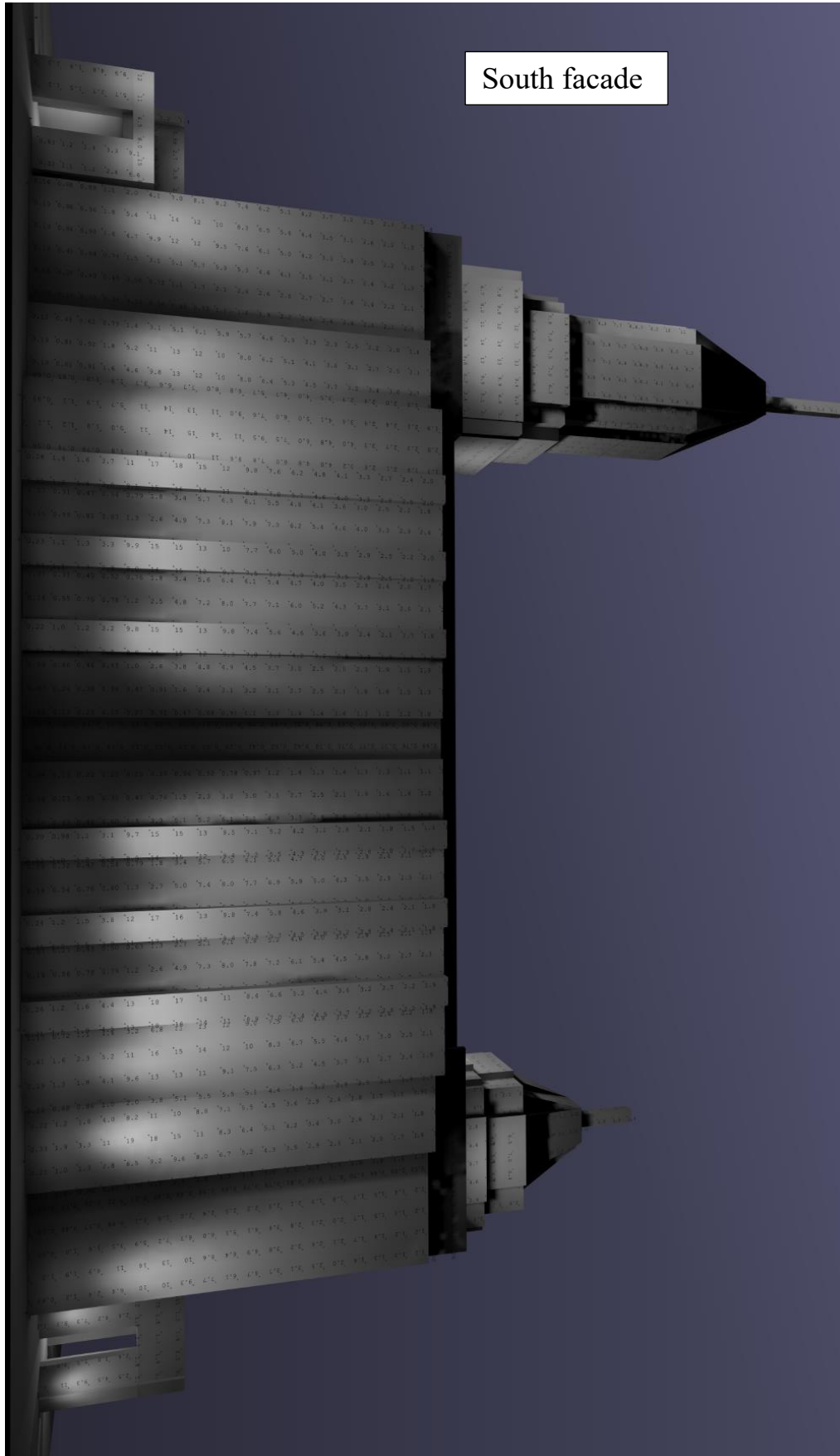


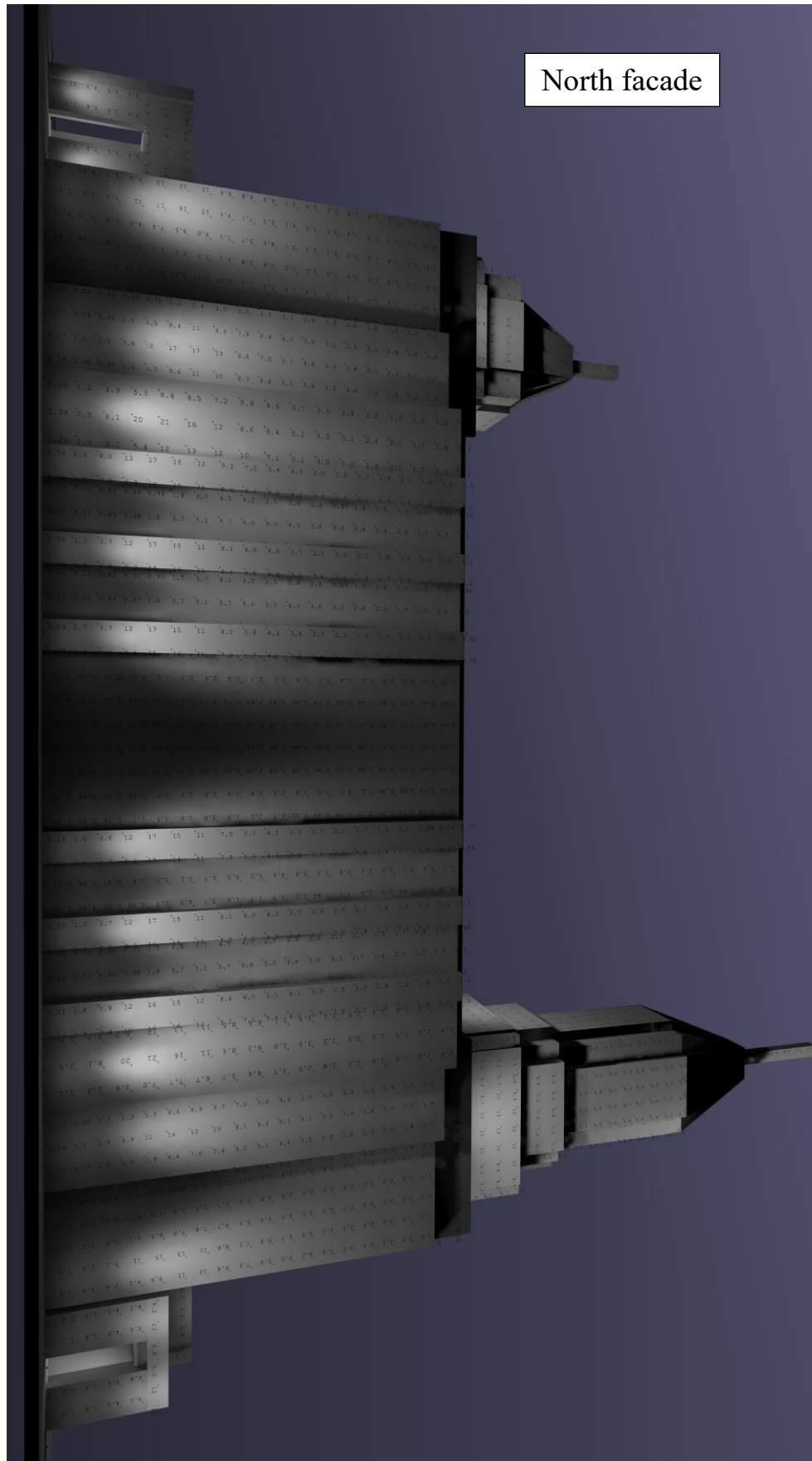
**EXHIBIT M – Lighting plan and review comments**



East facade





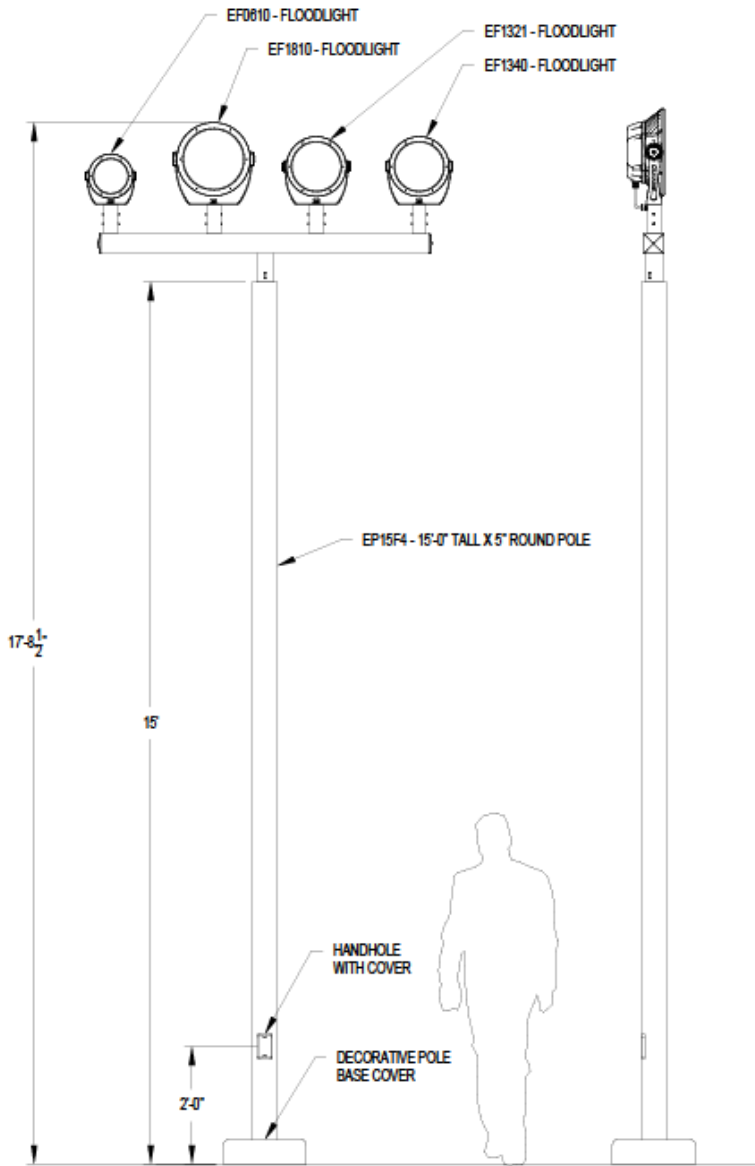




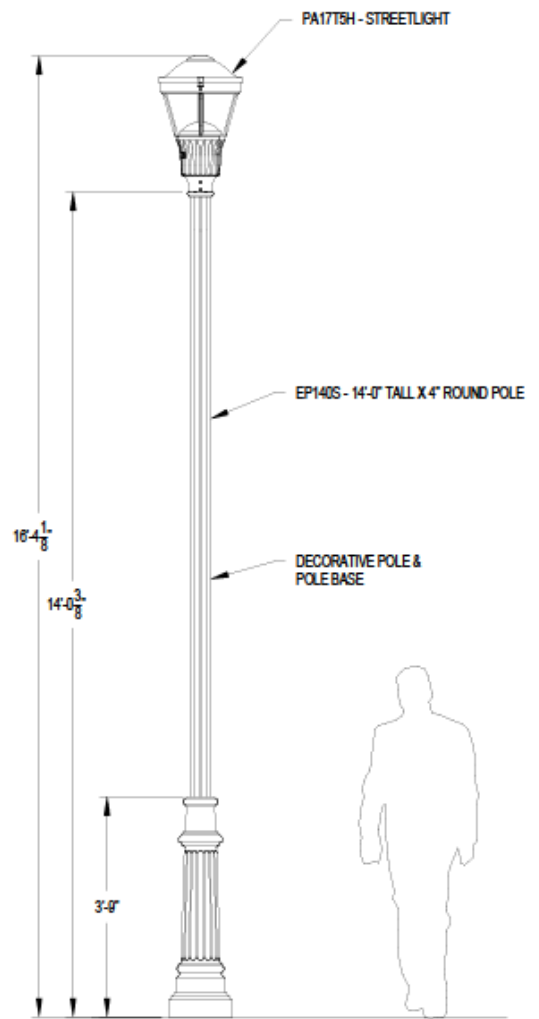
## FACADE LIGHTING RESULTS:

- MAXIMUM LUMINANCE LEVEL OF TEMPLE = 22 CD/M<sup>2</sup>

\* IF MEASURED LUMINANCE EXCEEDS 27 CD/M<sup>2</sup> DURING SITE INSPECTION, THE FIXTURES WILL BE DIMMED IN FIELD AS REQUIRED TO ENSURE COMPLIANCE WITH THE COUNTY CODE FOR MAXIMUM ALLOWED LUMINANCE LEVEL.



2 17'-11 1/4" TALL POLE ASSEMBLY WITH (4) FLOODLIGHTS  
SCALE: NTS



1 16'-4" TALL HEBER CITY POLE/LUMINAIRE ASSEMBLY  
SCALE: NTS

Façade Lighting - Lumen Summary per Improved Acre					
Fixture Type	Fixture's Purpose	Fixture Qty.	Lumen Output of Fixture	Dimming %	Total Adjusted Lumens
EF0610	Façade Lighting	2	6,287	0.50	6,287
EF0620	Façade Lighting	16	6,287	0.75	75,444
EF0621	Façade Lighting	12	6,287	0.70	52,811
EF0622	Façade Lighting	2	6,287	0.40	5,030
EF1320	Façade Lighting	2	12,574	0.75	18,861
EF1321	Façade Lighting	2	12,574	0.50	12,574
EF1340	Façade Lighting	6	12,574	0.75	56,583
EF1341	Façade Lighting	5	12,574	0.50	31,435
EF1342	Façade Lighting	4	12,574	0.60	30,178
EF1810	Façade Lighting	3	23,970	0.85	61,124
IR7B	Façade Lighting	18	1,186	0.90	19,213
EF1460	Monument Sign Lighting	3	1,408	0.16	676
FD6460	Flagpole Lighting*	1	460	1.00	460
PA23T5LL	Site Lighting (Walkways)*	12	3,747	0.90	40,468

Total Lumens:	411,142
Total Improved Site Acres:	16.486
Total Lumens Per Improved Acre:	24,939

\* Calculation Summary for Façade Lighting excludes lighting fixtures designated for IBC Egress Lighting (Section 1008), and IES Recommended Parking Lot Lighting and IES Recommended Walkway Lighting. Flagpole is downlighted using an adjustable beam aimed downward only at Flag.

IBC Egress Lighting - Lumen Summary per Improved Acre					
Fixture Type	Fixture's Purpose	Fixture Qty.	Lumen Output of Fixture	Dimming %	Total Adjusted Lumens
PA23T5H (Area Luminaire) / EP132S (Pole)	IBC Egress Lighting	10	11,241	1.00	112,410
PA23T3H (Area Luminaire) / EP112S (Pole)	IBC Egress Lighting	2	9,427	1.00	18,854
PA23T5LL (Area Luminaire) / EP108S (Pole)	IBC Egress Lighting	26	3,747	1.00	97,422
PA23T5L (Area Luminaire) / EP108S (Pole)	IBC Egress Lighting	10	7,494	1.00	74,940
PA17T5H (Area Luminaire) / EP140S (Pole)	IBC Egress Lighting	1	0 (Exempt)*	1.00	0 (Exempt)*

Total Lumens:	303,626
Total Improved Site Acres:	16.486
Total Lumens Per Improved Acre:	18,417

\* Calculation Summary for IBC Egress Lighting excludes lighting fixtures designated for Façade Lighting, IES Recommended Parking Lot Lighting, IES Recommended Walkway Lighting, and Heber City Streetlights.

IES Parking Lot Lighting - Lumen Summary per Improved Acre					
Fixture Type	Fixture's Purpose	Fixture Qty.	Lumen Output of Fixture	Dimming %	Total Adjusted Lumens
PA23T5H (Area Luminaire) / EP132S (Pole)	IES Parking Lot	38	11,241	1.00	427,158
PA23T3H (Area Luminaire) / EP112S (Pole)	IES Parking Lot	15	9,427	1.00	141,405
PA23T5H (Area Luminaire) / EP112S (Pole)	IES Parking Lot	3	11,241	1.00	33,723
PA23T5LL (Area Luminaire) / EP108S (Pole)	IES Parking Lot	2	3,747	1.00	7,494
PA23T5L (Area Luminaire) / EP108S (Pole)	IES Parking Lot	2	7,494	1.00	14,988

Total Lumens:	624,768
Total Improved Site Acres:	16.486
Total Lumens Per Improved Acre:	37,897

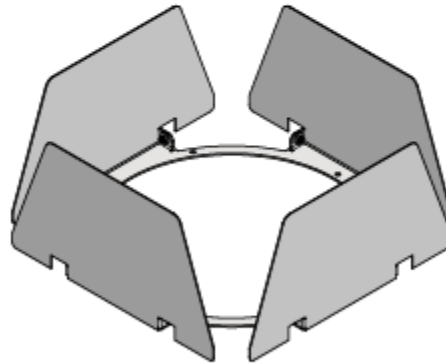
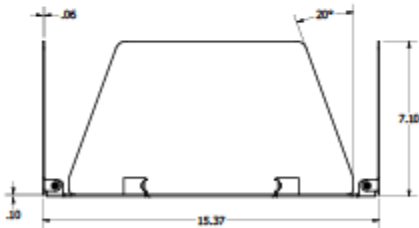
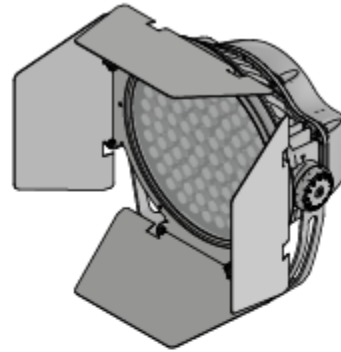
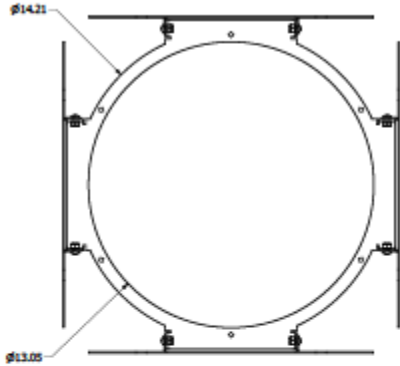
\* Calculation Summary for IES Parking Lot Lighting excludes lighting fixtures designated for Façade Lighting, IBC Egress Lighting (Section 1008), IES Recommended Walkway Lighting, and Heber City Streetlights.

IES Walkway Lighting - Lumen Summary per Improved Acre					
Fixture Type	Fixture's Purpose	Fixture Qty.	Lumen Output of Fixture	Dimming %	Total Adjusted Lumens
PA23T5LL (Area Luminaire) / EP108S (Pole)	IES Walkways	12	3,747	1.00	44,964

Total Lumens:	44,964
Total Improved Site Acres:	16.486
Total Lumens Per Improved Acre:	2,727

\* Calculation Summary for IES Parking Lot Lighting excludes lighting fixtures designated for Façade Lighting, IBC Egress Lighting (Section 1008), IES Recommended Walkway Lighting, and Heber City Streetlights.

BARN DOOR OPTION FOR ALL FLOODLIGHT TYPES:  
EF0610, EF0620, EF0621, EF0622, EF1320, EF1321,  
EF1340, EF1341, EF1342, EF1810



<small>THESE DRAWING SPECIFICATIONS BECOME AN ORDER WHEN IT IS NOT COPIED, REPRODUCED OR DIRECTLY OR INDIRECTLY FROM NORTH STAR LIGHTING INC.</small>			
<b>North Star Lighting Inc.</b>		<b>CD</b>	
<b>ALUMINUM</b>		<b>1/10/23</b>	
<b>POWDER COAT PAINT</b>		<b>1/3</b>	
<b>CAP3 BARNDOR</b>		<b>1</b>	

WASATCH COUNTY ORDINANCE COMPLIANCE - 13.21.16: EXTERIOR LIGHTING REGULATIONS					CLAYTON FOLLOW UP REVIEW	
1.	LIGHTING STANDARDS	COMPLIANCE	RELEVANT EVIDENCE	ACTION	RECOMMENDATION	RESPONSE / ACTION TAKEN
1	Compliance with building codes: All exterior lighting luminaires installed in conformance with this section shall comply with all applicable building codes in effect at the time of installation under appropriate permitting and inspection.	See 3a. Below	See 3a. Below	See 3a. Below	See 3a. Below	
2	Full shielding required: Unless exempted in this section, all exterior lighting luminaires shall be fully shielded.	Not Compliant	Per Luminaire Schedule EL602 provided on P11 of the Lighting Design Document (Appendix 1.3) IR7B is a direct uplight that is not fully shielded by the building.	Provide alternate luminaire that is adjustable and can be aimed towards the building, with no light emitting into the sky.	Field verification of shielding shall be performed from the rooftop to measure illuminance above the parapet and photograph all the luminaires from the parapet. direct view of light source shall not be visible from above the parapet.	Compliant pending field verification field verification required to check that all luminaires, titts are oriented, directed and focused as designed.
2	Full shielding required: Unless exempted in this section, all exterior lighting luminaires shall be fully shielded.	Not Compliant	Luminaire Types EF0610, EF0620, EF0640, EF1320, EF1340, EF1360, EF1810, EF1820, EF2010 state that barn door accessory shall be provided. Barn doors are not a standard option for any of these luminaires. Catalog #7's do not included any glare control shielding accessories. Standard shielding options are not adjustable.	Provide shop drawings from manufacturer that show adjustable barn door accessories. Barn Doors shall be fixed in place with a mechanical support or reinforcement to improve the rigidity of the adjusted position to avoid being moved by strong winds.	Although not listed on the Specification Sheet, Barn Doors are a Standard Accessory for these luminaire Types. See the "LIGHT SOURCE & OPTIONS / ACCESSORIES" columns for these luminaire Types on Sheet EL602 - LIGHT FIXTURE SCHEDULE for clarification. Also see the included Specification Sheet for clarification.	Compliant pending field verification field verification required to check that all barn doors are installed per design.
3a	Lighting application illuminance limits: Exterior lighting required by the International Building Code (IBC) version incorporated by reference in Section 7.04.01, including but not limited to points of egress and along the path of travel for the exit discharge from each exit to the public way, shall employ luminaires that adhere to, but not exceed, the IBC-required values.  Per IBC, "Illumination shall be provided along the path of travel for the exit discharge from each exit to the public way." 1008.2.1 illumination level under normal power - The means of egress illumination level shall be not less than 1 footcandle average at the walking surface.	More information needed. Excessive area with IBC Criteria applied.	Sheet ES020B The light levels on walkways around the building are excessive considering the context and location. More information is needed to understand the applicability of "exit discharge from each exit to the public way"	Provide diagram showing the "exit discharge from each exit to the public way"	The public way for most exits occur immediately outside the exits. Reduce lumen output of lights to meet IES Criteria. It seems that the IBC Criteria is applied to an excessive and unnecessary area.	Compliant
3b	For all other exterior lighting applications not governed by IBC requirements, excluding architectural lighting, the illuminance employed in each application shall adhere to, but not exceed, the IES-recommended minimum value for the application.  Parking Lot: IES RP-8-21 0.2 Fc Min 20:1 Max/Min (4 Fc Max for 0.2 Min) - 10:1 Avg./Min. was Deemed Acceptable.	Not Compliant	Sheets ES201A & ES201B Per Illuminance Summary table provided on Pg 3 & Pg 5 of Lighting Design Documents, Parking Lot illuminance minimums are below 0.2 Fc, and maximums are excessive, creating contrast and adaptation that may hinder visibility in the parking lot.	Change design to meet IES Parking Lot criteria.	Suggest to reduce lumen output, change to Type 4 distribution at perimeter and provide house-side shields on all luminaires around the perimeter of the parking lot.	Compliant With 10:1 Avg./Min as an acceptable variance to uniformity
3b	For all other exterior lighting applications not governed by IBC requirements, excluding architectural lighting, the illuminance employed in each application shall adhere to, but not exceed, the IES-recommended minimum value for the application.  Walkways: IES RP-43-22	Not Compliant	Sheets ES202A & ES202B Per Illuminance Summary table provided on Pg 6 of Lighting Design Documents, Walkway illuminances averaging 3 Fc - 6 Fc extremely excessive compared to the 0.4 Fc average required by IES RP-43 for L22.	Redesign lighting on walkways to 0.4 Fc average - which is the minimum required by IES RP-43 for L22. Upon review it was deemed that 1.0 Fc average is the Maximum Acceptable.		Compliant Adjacent to Architecture.
3c	With the exception of lighting exempted from regulation in subsection IV, item 23 of this section, and permanent lighting of the type described in subsection IV, item 24, the lighting of the building shall adhere to the recommendation found in ANSI/IES RP-8, Table 37-2, in no case shall exterior lighting installed on any site exceed 25,000 lumens per improved acre.	Not Compliant	It seems that only the Facade Lighting, Monument Sign Lighting and Flagpole Lighting are included in the calculation for 24,813 lumens per improved acre. While the Parking Lot Lighting is excluded, the Walkway Lighting is not excluded from this requirement.	All luminaires from the Walkway Lighting not governed by IBC shall be included in the calculation for 24,813 lumens per improved acre. Walkway Lighting will need to be reduced to be less than 25,000 lumens per improved acre.	Reduce Facade & Walkway lighting luminaires to meet this requirement.	Compliant pending Modifications New Lumen Summary is compliant based on the above calculations. The luminaires of the building shall be used to meet the lumens per acre. Features shall be modified (driver or otherwise) to have a maximum output of specified (dimmed) lumen levels.
4	Spectrum management: The correlated color temperature of light sources shall not exceed 3000 Kelvins.	Compliant	Per Luminaire Schedule EL602 provided on P11 of the Lighting Design Document (Appendix 1.3)	NA	NA	No Response Required.



5	Light trespass prohibited. No luminaire shall create conditions of light trespass, except as authorized by this section. Without limitation, single-family residential lots and agricultural uses are prohibited from light trespass.	Not Reviewable	There is no metric threshold to evaluate compliance of this requirement. The analysis provided describes the intent to meet this requirement and notes areas that may not meet the requirement. The height and material of the fence around the site would need to be known to understand the effectiveness of controlling light trespass.	Review the Exterior Lighting Regulations to provide a measurable threshold to be able to verify compliance with this requirement.			We cannot speak to the Reviewability of the Code; however, Sheet ES103 - SITE LIGHTING PHOTOMETRY, includes the Photometric Template from Every Luminaire on the Site, and with only a few exceptions, None of These Templates Extend Beyond the Developed Areas of The Site, and in the few instances where light is present near the edge of the property, that Light is Blocked/Terminated by the perimeter Wall.	<b>Compliant</b> The Site Lighting Photometry demonstrates the intent of this Light Trespass requirement is met.
6	General Curfew. All exterior lighting shall be extinguished one hour after sunset; or within one hour of close of normal business hours.	Non Compliant	No Exterior Lighting Sequence of Operations or Adaptive Controls information has been provided.	Provide Exterior Lighting Sequence of Operations and Adaptive Controls information compliant with Wasatch County code, with information on the hours of operation for the Temple.	To dim all lighting to 25% (5cd/sqm) upon close of building, turn off all lighting 1 hour after close of building. MLD Lighting Zone: L22 that borders L21, which supports the curfew to apply L21 no facade lighting after midnight.	See New Sheet EL503 - LIGHTING CONTROL SCHEDULES, for the Exterior Lighting Sequence of Operations.  See EL503 Exterior Sequence of Operations updated 9/12/2023 per follow-up review comments.	<b>Non Compliant</b> We believe there is a mistake in the Exterior Lighting Sequence of Operations on Sheet #EL503. The Site Lighting, Temple Facade/Grounds/Building Lighting, and Monument Sign all state "Features turn on 1-hour before DAWN via astronomical timesclock." This should state, "...1-hour before DUSC..." or, "turn on via photocell..."	
7	Flagpoles:						<b>Compliant</b>	
7a	Above 20ft AGL, may only be illuminated from above. Total light output may not exceed 800lms.	NA	NA	NA	NA	The Flagpole Uplight was Replaced with Fixture Type: FD6460, Flagpole-Mounted Flag Downlight. This fixture Attaches to the Flagpole and Rotates with the Flag, so the light is always directed toward the Flag. It only produces 460-lumens. See the Specification for this Fixture Type in the Lighting Fixture Schedule on Sheet EL602 for clarification. Also see the included Specification Sheet for clarification.	<b>Compliant</b>	
7b	Less than 20ft AGL, may be illuminated from below with up to 2 spot types luminaires with shields/diffusers to reduce glare, no more than 75lm/linear ft of the pole height. Light should be perpendicular only lighting the flag.	Compliant if flag pole height is 20ft	Per Luminaire Schedule EL602 provided on P11 of the Lighting Design Document (Appendix L.3), Luminaire Type: RTX lumens output complies, but states "No Shielding", which does not comply.	Provide Glare Shield that is a standard option for this luminaire.	NA	Fixture Type: RTX is an In-Grade Mounted Uplight that would be installed in the Concrete Apron Around the Flagpole, so the Facade-Mounted Glare Shield Cannot be Used as it would be a Trip Hazard. For this reason we have deleted it from the Lighting Fixture Schedule and the Drawings. See Row 7a Above for information Regarding the New Flagpole Light.	<b>Compliant</b>	
8	Service Station canopies	NA	NA	NA	NA		<b>Compliant</b>	

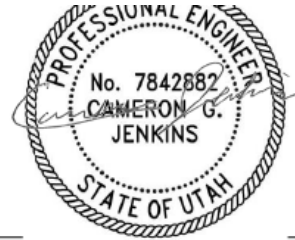
WASATCH COUNTY ORDINANCE COMPLIANCE							
L	CONDITIONS FOR EXTERIOR LIGHTING FOR WALL, ARCHITECTURAL FACADES AND TREES	COMPLIANCE	RELEVANT EVIDENCE	ACTION	RECOMMENDATION	RESPONSE / ACTION TAKEN	CLANTON FOLLOW UP REVIEW
1	All such lighting shall comply with the curfew requirement and light trespass prohibition specified in this section.	Non Compliant	No Exterior Lighting Sequence of Operations or Adaptive Controls information has been provided. Light Trespass cannot be evaluated, see comments on section 1.5 above.	Provide Exterior Lighting Sequence of Operations and Adaptive Controls information compliant with Wasatch County code, with information on the hours of operation for the Temple.	Curfew: See comments on Section 1.6 Above Light Trespass: See comments on Section 1.5 Above	See New Sheet EL503 - LIGHTING CONTROL SCHEDULES, for the Exterior Lighting Sequence of Operations.  See EL503 Exterior Sequence of Operations updated 9/12/2023 per follow-up review comments.	<b>Non Compliant</b> We believe there is a mistake in the Exterior Lighting Sequence of Operations on Sheet #EL503. The Site Lighting, Temple Facade/Grounds/Building Lighting, and Monument Sign all state "Features turn on 1-hour before DAWN via astronomical timesclock." This should state, "...1-hour before DUSC..." or, "turn on via photocell..."
2	Luminaires used for uplighting of structures may be unshielded by design provided that their direct light is completely captured by architectural surfaces and not emitted directly into the night sky. In the event that an applicant wishes to illuminate surfaces in this manner, the applicant shall also provide with the lighting plan required in subsection G of this section information on the construction materials of illuminated surfaces, their colors and finishes.	Non Compliant	Per Luminaire Schedule EL602 provided on P11 of the Lighting Design Document (Appendix L.5), RTX is a direct uplight that is not fully shielded by the building.	Provide alternate luminaire that is adjustable and can be aimed towards the building, with no light emitting into the sky	NA	Fixture Type: RTX is Adjustable and the light will be aimed/directed towards the Building. See the Revised Specification for this Fixture Type in the Lighting Fixture Schedule on Sheet EL602 for clarification. Also see the included Specification Sheet for clarification.	<b>Compliant pending field verification</b> Field verification required to check that all luminaires, RTXs are oriented, directed and focused as designed.
3	Luminaires used for uplighting of structures may be unshielded by design provided that their direct light is completely captured by architectural surfaces and not emitted directly into the night sky. In the event that an applicant wishes to illuminate surfaces in this manner, the applicant shall also provide with the lighting plan required in subsection G of this section information on the construction materials of illuminated surfaces, their colors and finishes.	Non Compliant	Luminaire Types EFR610, EFR620, EFR640, EF1320, EF1340, EF1360, EF1810, EF1820, EF2010 state that barn door accessory shall be provided. Barn doors are not a standard option for any of these luminaires. Catalog #s do not included any glare control shielding accessories. Standard shielding options are not adjustable.	Provide shop drawings from manufacturer that show adjustable barn door accessories. Barn Doors shall be fixed in place with a mechanical support or reinforcement to improve the rigidity of the adjusted position to avoid being moved by strong winds.	Field verification of shielding shall be performed from the rooftop to measure illuminance above the parapet and photograph all the luminaires from the parapet. direct view of light source shall not be visible from above the parapet.	Although not listed on the Specification Sheet, Barn Doors are a Standard Accessory for these Fixture Types. See the "LIGHT SOURCE & OPTIONS / ACCESSORIES" columns for these Fixture Types on Sheet EL602 - LIGHT FIXTURE SCHEDULE, for clarification. Also see the included Specification Sheet for clarification.	<b>Compliant pending field verification</b> Field verification required to check that all barn doors are installed per design.

	COMPLIANCE	RELEVANT EVIDENCE	ACTION	RECOMMENDATIONS	RESPONSE / ACTION TAKEN	CLANTON FOLLOW UP REVIEW
1 East Steeple, 138 feet above ground level (AGL). Marking and lighting are not necessary for aviation safety.	Not Compliant	Per the renders and annotation provided on P8 of the Lighting Design Documents, it is shown that the East Steeple is required to be illuminated above the dotted line, which is incorrect and unnecessary. (Appendix 2.1)	The East Steeple does not require FAA required lighting of 15fc and needs to be within the regulations stipulated in the Wasatch County Ordinance, with a maximum luminaire of 27 cd/sqm. Additionally, lumens used in this area should not be exempt from the Wasatch County lumens per improved acre calculation.		The FAA Lighting Requirement is now being Met by using a Steady Red Beacon, so the Maximum Luminaire Level for the Entire Facade is 22cd/m2; however, that Level of Luminaire is rare. See Revised Sheet ES203A - TEMPLE FACADE LIGHTING PHOTOMETRY, for the Updated Photometry.	Compliant
2 West Steeple, 200 feet above ground level (AGL). This structure is to be marked/lighting with IAW FAA AC 70/7460-1M PABA 4.5 (Appendix 2.2)	Not Compliant	Per the renders and annotation provided on P8 of the Lighting Design Documents, it is shown that the West Steeple is required to be illuminated above the dotted line. Only one third of this Steeple is required to be illuminated at 15fc per FAA regulations. (Appendix 2.1)	Only the top 67ft of the East Steeple is required to be illuminated at 15fc per FAA standards. The remainder of the building/steeple, 133 ft from ground level, needs to be within regulations stipulated in the Wasatch County Ordinance, with a maximum of 27 cd/sqm. Additionally, lumens used in this area should not be exempt from the Wasatch County lumens per improved acre calculation.	We recommend the use of red obstruction lighting to fulfill the FAA requirement, especially after curfew instead of lighting at 15fc. The 15 fc requirement for FAA may result in over 300 cd/m2 luminaire (based on a 0.65 surface reflectance). This is equivalent to the brightness of digital signage used in larger city downtown areas. We are very concerned that this luminaire level remaining on all night is not appropriate for this small town and rural area. We are recommending for this area and the East Steeple to be exempt from the Wasatch County lumens per improved acre calculation. Marker Light on West Tower Steeple for post-curfew use.	The FAA Lighting Requirement is now being Met by using a Steady Red Beacon, so the Maximum Luminaire Level for the Entire Facade is 22cd/m2; however, that Level of Luminaire is rare. See Revised Sheet ES203A - TEMPLE FACADE LIGHTING PHOTOMETRY, for the Updated Photometry.	Compliant
4 The luminance of architectural surfaces shall not exceed 27 candelas per square meter. Luminance of a surface shall be measured in a line of sight direction to the observer at an angle perpendicular to the surface being measured. The final measurement shall be the median value of three (3) measurements. A margin of error not to exceed twenty (20) degrees from perpendicular viewing angle is acceptable for purposes of measurement. The device used to measure the luminance shall have a margin of error of not more than ten percent. Measurements associated with enforcement actions may only be taken by the planning director or his designee. Measurements shall be taken at a distance of not less than ten (10) feet from the surface, to avoid anomalies due to polished, reflective or irregular materials.	Non Compliant	East Steeple is not exempt from Wasatch County Ordinance as FAA does not require marking and lighting on this structure. Areas on the east Steeple exceed 27 cd/sqm which is non compliant. Similarly, in the lower West facade/steeple up to 133ft, should not exceed 27 cd/sqm. (Appendix 1.5)	Reduce the luminance levels to below 27cd/sqm on East Steeple and in the lower facade up to 133ft.	Reduce the luminance levels further than 27 cd/sqm, which is provided as a maximum. The max luminance of 27cd/m2 is below the allowable MLO L22, but does not seem appropriate to illuminate the entire facade to this level. Both from an environmental perspective and an aesthetic perspective, providing focus areas with an accent of 27cd/m2 with most of the facade at a lower 5cd/m2 would reduce impact and create more visual interest.	The FAA Lighting Requirement is now being Met by using a Steady Red Beacon, so the Maximum Luminaire Level for the Entire Facade is 22cd/m2; however, that Level of Luminaire is rare. See Revised Sheet ES203A - TEMPLE FACADE LIGHTING PHOTOMETRY, for the Updated Photometry.	Compliant
5 Luminaires used for uplighting of trees or other landscaping elements may be unshielded by design provided that their direct light is mostly captured by trees or landscaping and not emitted into the sky. If the luminaire is not shielded, the applicant shall also provide with the lighting plan required in subsection G of this section. Information on the height of the trees or landscaping. The luminaires used for the uplighting of trees or other landscaping elements shall not exceed 10 lumens per vertical foot of the trees or landscaping, and may not exceed 1,000 lumens per improved acre. This limit does not create an additional allowance beyond the site lumen threshold stated in subsection I, item 3c of this section.	NA	NA	NA	NA	No Response Required.	NA

## EXHIBIT N – No rise certification study



# MEMORANDUM



**Date:** September 7, 2023  
**To:** Core Architecture  
**From:** Cameron Jenkins PE, CFM  
**Project:** Heber Temple  
**Subject:** No-Rise Certification  
**Project #:** 799-23-02

9-07-2023

## INTRODUCTION AND BACKGROUND

CORE Architecture contracted with Bowen Collins & Associates (BC&A) to prepare a no-rise certification for the proposed Heber Valley Temple site. The Heber Valley Temple site is located adjacent to North Lake Creek at approximately 1474 East Center Street in Heber, Utah as shown on Figure 1.

A part of the project involves improving existing trails, a new storm drain outfall into North Lake creek, connections to a sewer, and a new water line crossing North Lake Creek; all which are within a FEMA Special Flood Hazard Area Zone (SFHA) AE with Floodway. When working in Floodway's, you are required to either obtain a no-rise certification or submit a Conditional Letter of Map Revision (CLOMR) before any work can be completed. A Letter of Map Revision (LOMR) should be obtained from FEMA within six months after construction is completed. Also, before any construction activity can be started in a FEMA SFHA, a Floodplain Development Permit must be obtained. A no-rise certification shows that any work inside of the Floodway does not cause an increase of water surface elevation based on existing conditions. This letter provides the no-rise certification for the five construction activities (see sections below): trail improvements, storm drain outfall, sewer connection, waterline connection, and dewatering under the Temple footprint. The design drawings for each improvement are attached to this letter.

## TRAIL IMPROVEMENTS

There is an existing earthen trail that follows along the Humbug Canal and crosses over North Lake Creek and through the floodway near the project site. As part of the Heber Valley Temple project, the improvements to the trail inside the floodway include removing part of the top of the trail and replacing it with asphalt as shown in Figure 2. The proposed asphalt finished grade elevations will match the existing grade elevation and similar roughness values as the existing trail. The proposed trail improvements will have minimal impact on the riverine hydraulics and will not cause any increase in water surface elevation and a no-rise certification can be obtained.

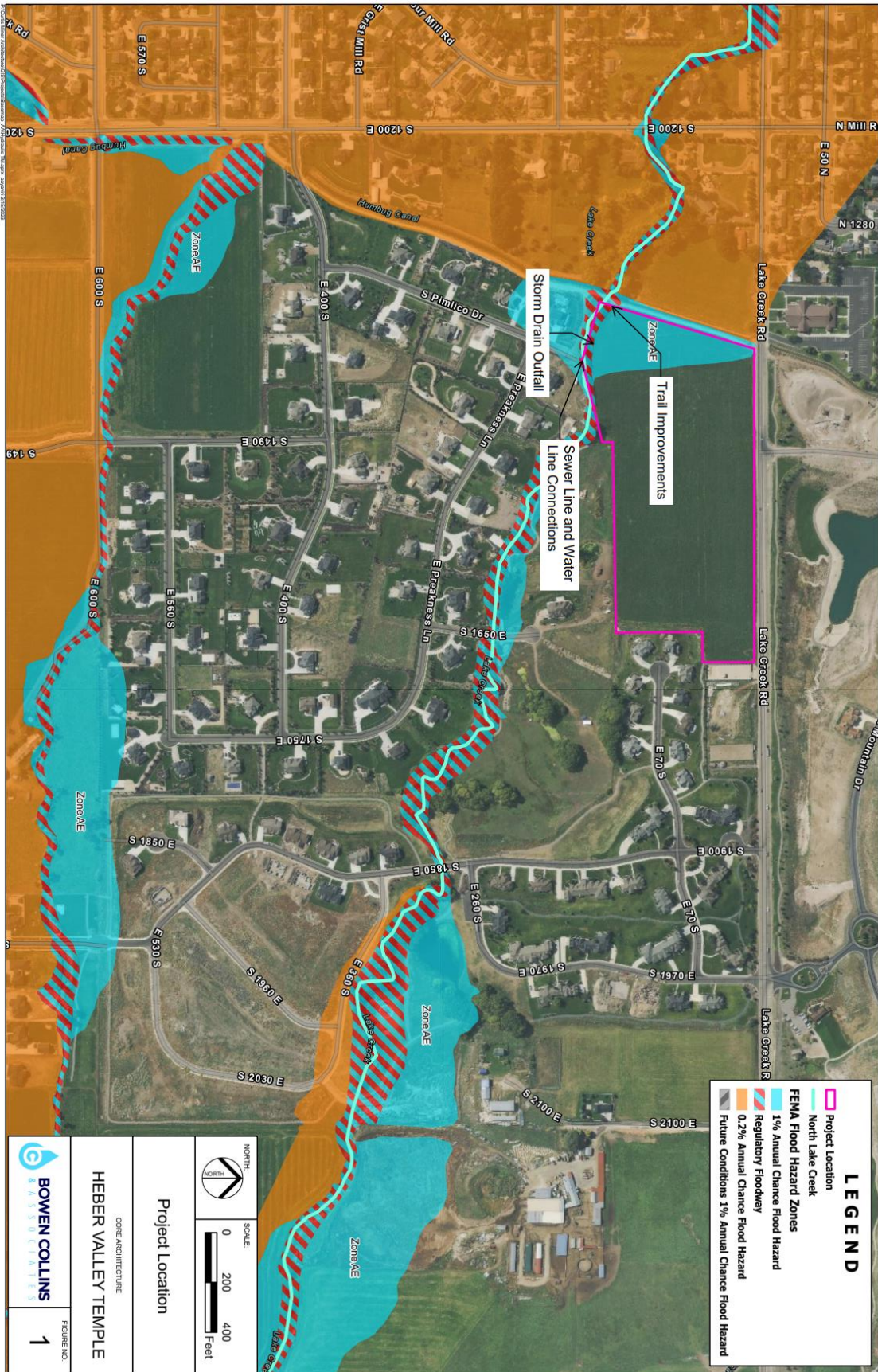
## STORMDRAIN OUTFALL

As part of the project, a new storm drain outfall will be constructed along the right bank inside of the North Lake Creek Floodway as shown in Figure 3. The project will include excavating in the floodway to install the storm drain pipe and outlet. Fill and riprap will also be placed as part of the project. The finish grade of the fill and riprap will match the pre-construction. The effective FEMA HEC-RAS model has a channel roughness value in the vicinity of the storm drain outfall of 0.06 which is higher than a 0.045 value for riprap. Revising the roughness to 0.045 value would either reduce the water surface elevation or keep it the same as the area is small. Based on this information a no-rise certification can be obtained.

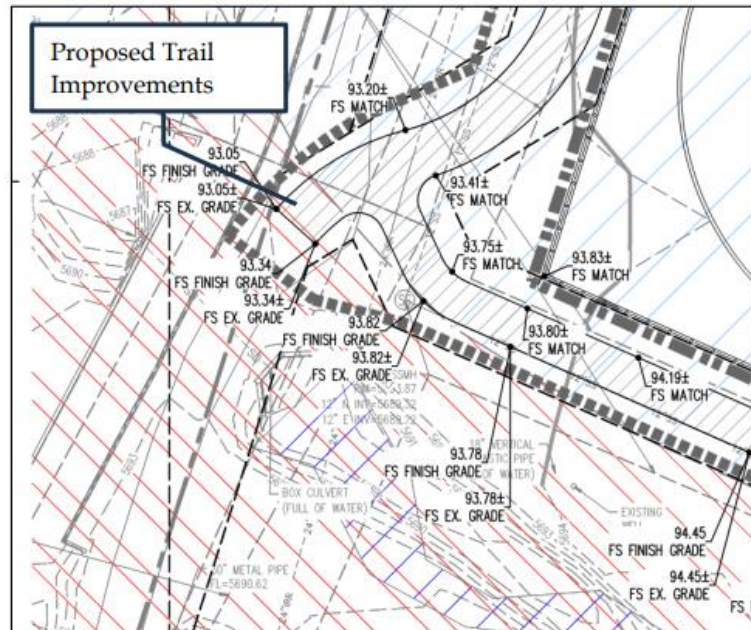
Bowen Collins and Associates  
Core Architecture

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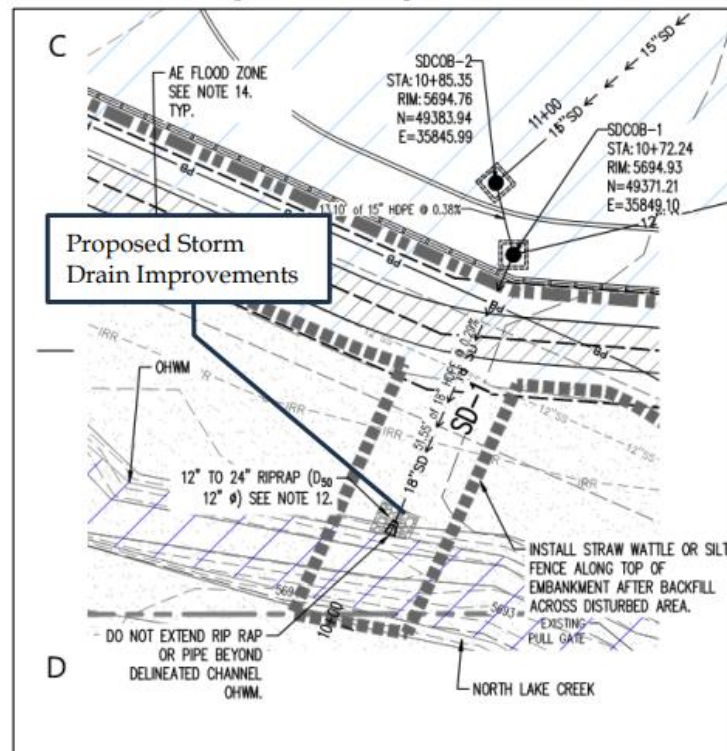








**Figure 2 Trail Improvements**



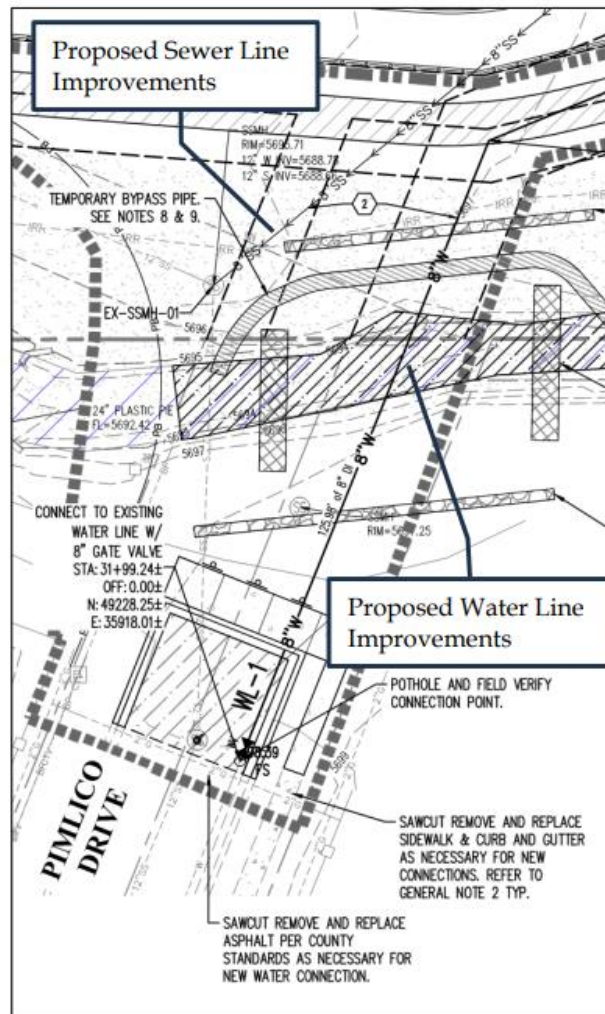
**Figure 3 Storm Drain Improvements**

## SEWER CONNECTION

There is an existing sewer line in the floodway that the project will be connecting into as shown in Figure 4. The project will excavate in the floodway, install the pipe, and restore the finish grade to the pre-constructing grade and existing conditions. The proposed sewer connection will have no impact on the riverine hydraulics, would not cause any increase in water surface elevation, and a no-rise certification can be obtained.

## WATERLINE CONNECTION

There is an existing waterline on the south side of North Lake Creek that the project will be connecting into by crossing the creek and Floodway as shown in Figure 4. The project will excavate in the floodway, install the pipe, and restore the finish grade to the pre-constructing grade and existing conditions. The proposed waterline connection will have no impact on the riverine hydraulics, would not cause any increase in water surface elevation, and a no-rise certification can be obtained.



**Figure 4 Sewer Line and Water Line Improvements**

**DEWATERING UNDER TEMPLE FOOTPRINT**

Due to the shallow groundwater and final subsurface elevation of the temple, long-term dewatering will be required (see the BC&A Heber Temple Dewatering Investigation Report (March 2023)). Groundwater is present about 10 to 15 feet below ground surface (bgs) at the site. These shallow groundwater conditions present challenges for dewatering and construction activities for the construction of the new Temple building. These shallow groundwater conditions will require both short term construction dewatering and long-term dewatering due to the subsurface elevation of the temple. The results of the investigation indicated there is up to 800 gpm (1.78 cfs) needed for the short-term dewatering and up to 250gpm (0.56 cfs) for the long-term dewatering. These numbers represent the max expected dewatering rates listed the Dewatering Investigation Report (March 2023) with the minimum values much lower.

The current effective FEMA discharge is 530 cfs and an increase of 1.78 cfs (short term) is approximately only a 0.34% over the current effective discharge and will cause no to negligible increase in water surface elevation (rounds to zero). The long term dewatering would cause an even less impact on water surface elevation. This also assumes that there is dewatering occurring which may not always be the case.

**NO-RISE CERTIFICATION**

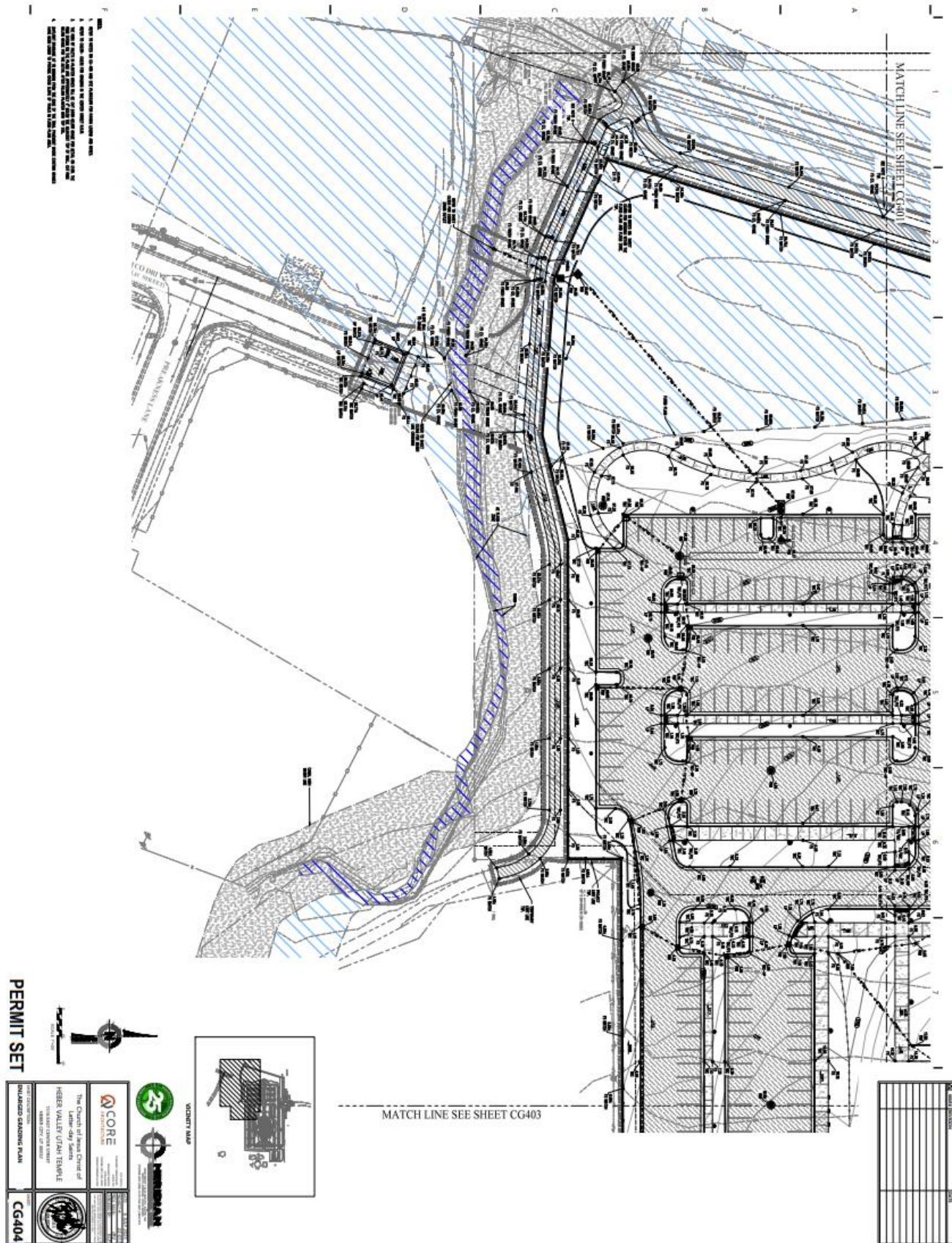
This letter is to certify that I am duly qualified engineer licensed to practice in the State of Utah. It is to further certify that the technical data above supports the fact that proposed Heber Temple project work inside of the floodway will not impact the base flood elevations, floodway elevations, and floodway widths on North Lake Creek at published cross sections in the Flood Insurance Study for Wasatch County, dated March 15, 2012 and will not impact the base flood elevations, floodway elevations, and floodway widths at the unpublished cross-sections in the proposed development.

Sincerely,



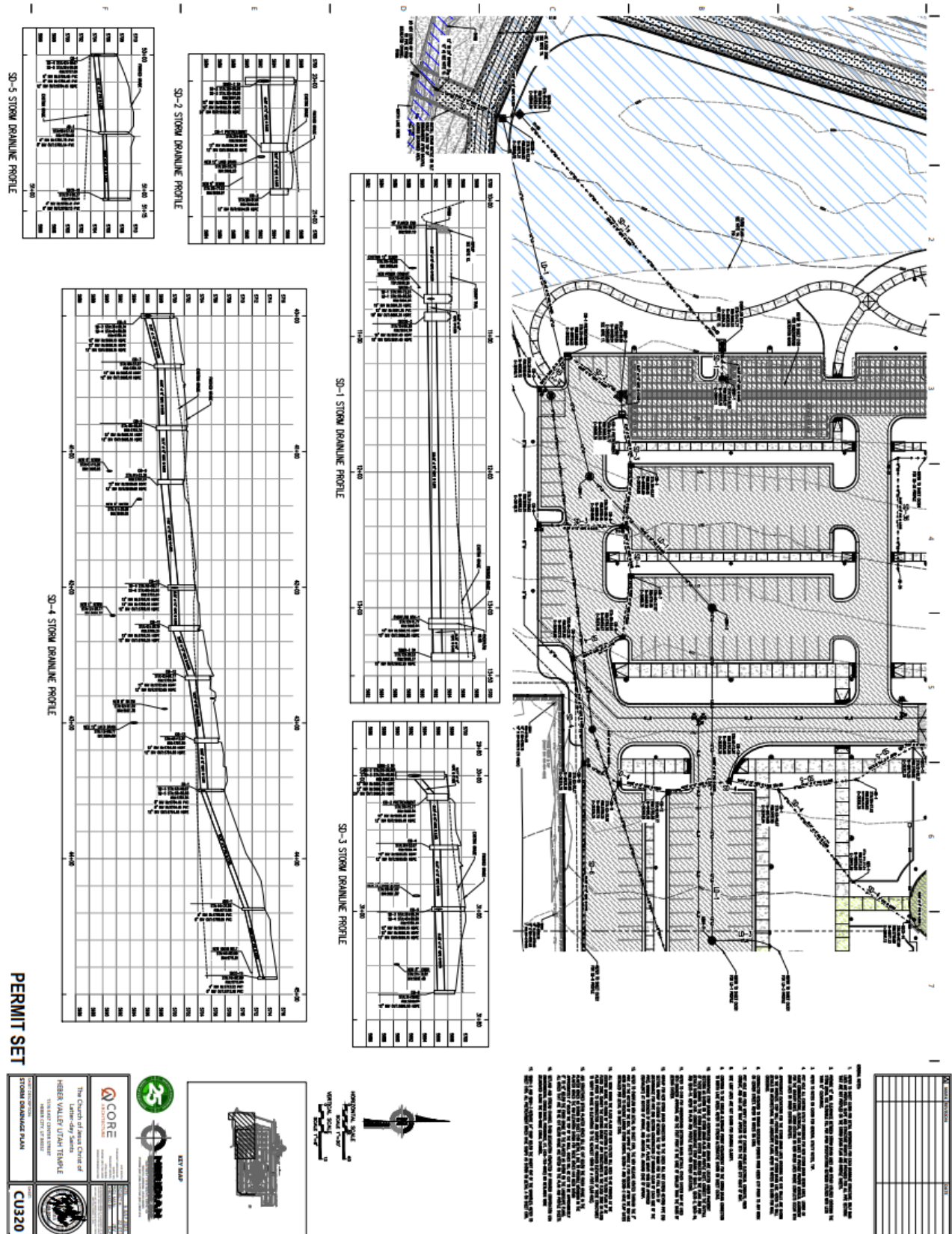
Cameron Jenkins, P.E., CFM  
Bowen Collins & Associates









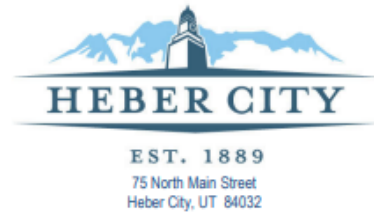






**EXHIBIT O- Heber City traffic review letter**

October 16, 2023



Mr. Doug Smith  
Wasatch County Planning  
35 South 500 East  
Heber City, Utah 84032

**SUBJECT: LDS Temple Project  
Heber City - Traffic Impact Study Review**

Doug,

Per your request I am providing this letter outlining the Traffic Impact Study (TIS) requirements Heber City requested for the Temple Project, our review of the TIS, and a brief summary of the TIS Findings.

Heber City requested a TIS meeting UDOT Level 3 requirements or meeting UDOT Level 2 requirements with a 20-year Projection. We also requested that the study specifically analyze the following intersections/locations:

- 1) Main Street & 100 South
- 2) Main Street & Center Street
- 3) Center Street & Mill Road
- 4) Center Street & 2400 East
- 5) Mill Road & 1200 South
- 6) Mill Road & 600 South
- 7) Temple West Entrance (Center Street & Heritage Farms Parkway/East Bypass)
- 8) Temple East Entrance (Center Street)

A term used to describe the operating performance of an intersection or street is Level of Service (LOS). A LOS scale typically ranges from A, being the best, to F, representing failure or significant delays. Heber City's LOS standard is C.

The TIS included a Level of Service (LOS) analysis evaluating the intersections/locations listed above using the following scenarios:

- a) Existing/Background Conditions
- b) Project Conditions
- c) Future 2027 Background Conditions
- d) Future 2027 Plus Project Conditions
- e) Future 2042 Background Conditions
- f) Future 2042 Plus Project Conditions

**West Entrance Roundabout**

Before outlining the findings of the TIS further, I want to point out that a Preliminary Traffic Study submitted originally by the Applicant indicated that a LOS F was expected at the Temple



West Entrance location. During an initial Development Review Meeting held with the County, the Applicant, Heber City, and others, I requested that the Applicant consider installing a roundabout at that location to mitigate the concern. The Applicant agreed to this request and included the roundabout in future iterations of the TIS. With the mitigation of the roundabout installation, the TIS indicates that a LOS of A is anticipated at the West Entrance location in all of the future scenarios.

### **Background Conditions**

The Existing/Background Conditions scenario indicated that all of the intersections currently operate at an acceptable LOS with the exception of Mill Road & 600 South, which operates at a LOS F for a short time in the AM peak associated with the morning school rush. However, the report also indicates that this issue can be mitigated by installing a 4-way stop at that location, which has recently been completed by the City.

With the 4-way stop mitigation at Mill Road and 600 South, the TIS indicates the following with regard to Background Traffic (No Project).

- 2027 – No Deficiencies
- 2042 – Deficiencies
  - Mill Rd & Center – LOS F
  - Mill Rd & 600 South – LOS F
  - Mill Rd & 1200 South – LOS F

### **Plus Project Conditions**

The “Plus Project” scenarios were evaluated first without mitigation measures, and then again with recommended mitigation measures implemented. The LOS indicated below are without mitigation. However, with the recommended mitigation measures, each intersection can be brought within acceptable LOS.

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• 2027 – Deficiencies               <ul style="list-style-type: none"> <li>▪ Mill Rd &amp; Center – LOS E</li> <li>▪ Mill Rd &amp; 600 South – LOS F</li> </ul> </li> <li>• 2042 – Deficiencies               <ul style="list-style-type: none"> <li>▪ Mill Rd &amp; Center – LOS F</li> <li>▪ Mill Rd &amp; 600 South – LOS F</li> <li>▪ Mill Rd &amp; 1200 South – LOS F</li> </ul> </li> </ul> | <b>Recommended Mitigation</b> <ul style="list-style-type: none"> <li>- Signal</li> <li>- 4-Way Stop (already installed)</li> <li>- Signal</li> <li>- Roundabout</li> <li>- Signal</li> </ul> |
|--|--|

### **Position Relating to TIS Findings**

As you can see, each of the intersections with future deficiencies will be deficient by 2042 with or without the Temple Project. Impacts from the project will speed up the need for mitigation measures at these intersections, but the City has already included or is including projects in our Streets Master Plan to address these deficiencies. The City may or may not chose the same future mitigation measure recommended by the Temple TIS.

The typical method for addressing deficiencies caused by general growth is to assess impact fees to all new projects contributing to the need for future improvements. For this specific situation, the Temple Project is located in the County, impacting the City’s ability to charge impact fees for this project. In addition, the projected cost of the roundabout to be fully funded by the Church, exceeds the amount that the City would have charged the Applicant for Impact Fees if it

were a typical project located within the City. Because of these reasons, the City's legal counsel recommended that the City not pursue any additional impact fees related to the project.

### **Projected Trips**

The TIS indicates that the project will generate approximately 2,014 additional daily trips with AM and PM peaks of 172-173 trips per hour. For reference, this amount of daily trips is generally equivalent to a development of around 200 homes.

In addition, Temples typically don't generate the significant AM and PM peaks that are associated with other large projects such as schools. The daily trips associated with Temples are more evenly distributed throughout the day during operating hours.

### **Conclusion**

In addition to reviewing the TIS in-house, Heber City also sent it out to be reviewed by Horrocks Engineer's Traffic Engineering Team. The reviews resulted in minor comments which have been addressed by the applicant through the re-submittal and review process. Based on the review, the TIS appears to meet or exceed industry standards for these types of studies and is considered acceptable by Heber City.

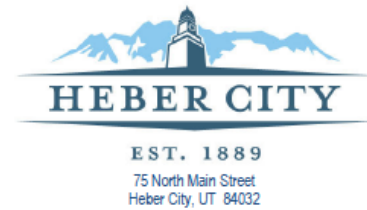
Respectfully,



Russell Funk  
Heber City Engineer

cc: Kurt Mather, CORE Architecture  
Jason Sandburg, CORE Architecture  
Trulan Preece, Church of Jesus Christ of Latter Day Saints

July 6, 2023



Mr. Doug Smith  
Wasatch County Planning  
35 South 500 East  
Heber City, Utah 84032

**SUBJECT: LDS Temple Project  
Heber City Review / Requirements**

Doug,

The applicant for the LDS Temple Project has requested a letter be sent from Heber City to Wasatch County outlining our requirements for project approval and indicating the current status of our review.

This is a unique project for the City where the actual site is located in Wasatch County, but the project will front and require widening and improvements to a Heber City road (Center Street). As such, the appropriate process for the approval is a Roadway Dedication Plat, which is a staff level approval, with no formal approval required from the Planning Commission or City Council.

The application package required by the City for this project included the following:

- Geotechnical Report
- Storm Water / Drainage Report
- Traffic Impact Study
- Boundary Survey
- Road Dedication Plat
- Construction Drawings
- Draft Land Use MOU (Parties – Heber City, Wasatch County, LDS Church)

We are currently in the application review process, but have already completed at least one full round of reviews on all of the submitted documents. We provided our most recent round of comments back to the applicant on June 14<sup>th</sup> and are currently waiting on a re-submission.

At this point comments are relatively minor and addressing them is not anticipated to require significant changes to the general design or the anticipated land dedication required for the roadway. Once all of our comments have been addressed, we anticipate approving the application subject to final approval of the proposed Land Use MOU by the Wasatch County and Heber City Councils.

Once final approval is granted, Heber City will require the applicant to follow our standard construction process, which will include completing a standard Performance Agreement with the City, providing an assurance bond (cash or letter of credit) for the full amount of construction of

all public infrastructure, providing an inspection deposit/fees to cover inspection of the improvements, and to comply with our inspection, acceptance, and warranty processes.

Please let me know if you have any specific questions that I haven't answered. You can reach me at (435) 657-7929.

Respectfully,

A handwritten signature in blue ink that reads "Russell Funk". The signature is fluid and cursive, with the first name "Russell" being more prominent than the last name "Funk".

Russell Funk  
Heber City Engineer

cc: Jason Sandburg, CORE Architecture  
Trulan Preece, Church of Jesus Christ of Latter Day Saints



## EXHIBIT P – DRC report



### Wasatch County DESIGN REVIEW COMMITTEE (DRC) COMMENTS

PROJECT ID: DEV-7924  
PROJECT NAME: FINAL SITE - HEBER VALLEY UTAH TEMPLE  
VESTING DATE: 5/19/2023  
REVIEW CYCLE #: 5

## REVIEW CYCLE STATUS: READY FOR DECISION

Project comments have been collected from reviewers for the above noted review cycle and compiled for your reference below. Please review the comments and provide revised plans/documents if necessary. **Resubmittals must include a plan review response letter** outlining where requested changes and corrections can be found. Failure to provide such a letter will result in the project being returned to you.

**When uploading revisions please name your documents exactly the same as it was previously uploaded. Revision numbers and dates are automatically tracked. There is no need to re-upload documents that aren't being changed. DO NOT DELETE documents and then upload new ones.**

Once you have addressed all of your items and successfully uploaded your revisions, be sure to re-submit your project for review. Resubmittal must be made through the portal in order to receive official review. Projects requiring Planning Commission approvals or recommendations will not be placed on a planning commission agenda until all DRC reviewers have recommended the item to move forward.

Entity	Decision
Sheriff's Office	Ready for Decision
Building Department	Ready for Decision
GIS Department	Ready for Decision
Weed Department	Ready for Decision
County Surveyor	Ready for Decision
Fire SSD	Ready for Decision
Health Department	Ready for Decision
Environmental Quality	Ready for Decision
Manager's office	Ready for Decision
Assessor's Office	No Action Taken
Engineering Department	Ready for Decision
DRC - SSA 1 Water	Ready for Decision
Planning Department	Ready for Decision
DRC - Twin Creeks SSD	Ready for Decision
Recorder's Office	Ready for Decision
MAG Regional Trail Planner	Ready for Decision
Public Works Department	No Action Taken

**Approved** = Reviewing entity has approved the project under consideration of their applicable codes. Any open comments are considered conditions of the entities recommendation.

**Ready for Decision** = Reviewing entity recommends the project move forward to a Planning Commission meeting (if applicable). Any open comments are considered conditions of the entities recommendation.

**Changes Required** = Reviewing entity has identified an issue(s) that needs to be resolved before recommending the project move forward.

**No Action** = Reviewing entity has not taken any action for the review cycle.

## OVERALL PROJECT COMMENTS

DRC Project Comments		
Comment ID	Entity	Comment
C-PLN-App-22	PLN - County Planning Approval	The letter from Heber City regarding the road improvements is not a final letter. The letter is still in the review process. It would be nice to have the final letter stating that the roads have been approved.
DRC-JSSD2	DRC - Jordanelle SSD	Construction drawing plan review to be coordinated and completed with District Engineer.

## PROJECT DOCUMENT SHEET COMMENTS BY REVIEWING ENTITY

DRC - Engineering Dept		
Comment ID	Sheet Name	Comment
DRC-ENG31	Other a - Dewatering Study	Condition of Approval: Provide verification that the dewatering system discharge quantities are at or below expected levels at 45 days after system completion and before final site approval.
DRC-ENG33	09 - Geotechnical Report	Condition of Approval: For approval of the subdivision construction permit, present an updated report which corrects; 1. The site class per AGEC Comment 4 in their 09/29/2023 review letter, 2. Contains a stamp by a Utah Licensed Geologist (this was included in previous versions of the letter), 3. Along with any other corrections which need to be made.

DRC - GIS Dept		
Comment ID	Sheet Name	Comment
DRC-GIS1	04 - Site Plan	This structure will need an address. I have assigned it an address. I will have this address added to the county tax system and our 911 data. Work with me if if you have any questions.  New Address: 1516 E CENTER ST  Ivan Spencer ispencer@wasatch.utah.gov

EXT – MAG Regional Trail Planner		
Comment ID	Sheet Name	Comment
DRC-MAG1	02a - Plat	Conditional approval. Per County code the trails should connect to the adjacent properties trails, specifically on Pimlico Drive.

**EXHIBIT Q – Fiscal Review by Attorney and Clerk**



**WASATCH COUNTY ATTORNEY**

805 West 100 South  
Heber City, Utah 84032  
Telephone (435)654-2909  
Facsimile (435) 654-2947

SCOTT H SWEAT  
COUNTY ATTORNEY

MCKAY G KING  
S. CASE WADE  
JON WOODARD  
MICHAEL A. SNELL  
SHELBY M. THURGOOD  
ALEX D. STOEDTER

September 15, 2023

To Whom It May Concern;

In conjunction with the application for the Heber Valley Temple project by Core Architecture, for the Church of Jesus Christ of Latter Day Saints, the applicant has requested the County consider an ordinance adopting a development agreement for the project. I have conducted a review of the legal implication of the proposed ordinance submitted on September 11, 2023, and the proposed development agreement submitted with it. I have no legal objections to these documents and do not find any material issues that would prevent me from approving them as to form, as drafted.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Woodard", is written over a horizontal line. Below the signature, the name "Jon Woodard" and title "Deputy County Attorney" are printed.

Jon Woodard  
Deputy County Attorney

COUNTY MANAGER  
Dustin A. Grabau



COUNTY COUNCIL

Luke Searle  
Steve Farrell  
Erik Rowland  
Kendall Crittenden  
Mark Nelson  
Karl McMillan  
Spencer Park

The Office of the Wasatch County Clerk/Auditor received an "Application for the Adoption of an Ordinance Approving Development Agreement for Heber Valley Temple Site" date stamped 9-11-2023 at 2:56 pm MST.

The Wasatch County Auditor has conducted an unbiased, good-faith fiscal review of the proposed ordinance. In doing so, the Auditor analyzed several factors that may affect the estimated cost of implementing the proposed ordinance. Below is an overview of the factors that were considered and a written recommendation regarding the fiscal implications of the proposed ordinance. The parameters of the fiscal review were limited to analyzing the cost of implementing the proposed ordinance. External, economic, community, and/or other potential impacts are outside the scope of the review.

In conducting the fiscal review, all of the following were considered:

1. Whether the proposed ordinance would impose a fiscal impact on the county's payroll and benefits costs.
2. Whether the proposed ordinance would impose a fiscal impact on taxes or impose a new tax.
3. Whether the proposed ordinance would impact tax rates financially.
4. Whether the proposed ordinance would impose a fiscal impact on the issuance or change in bond status, notes, or other debt instruments.
5. Whether the proposed ordinance would impose a fiscal impact on the cost or savings to local government entities.
6. Whether the proposed ordinance would increase costs to the County.

The Wasatch County Auditor estimates that implementing the proposed ordinance would have no significant fiscal impact on the County and would not result in an increase or decrease in taxes or debt. The Wasatch County Clerk/Auditor asks the Planning Department to relay this information to the County Legislative Body with its staff report on the proposed ordinance.

Respectfully submitted this 19th day of September 2023.

A handwritten signature in blue ink, reading "Joey D. Granger".

~ Joey D Granger, Wasatch County Clerk/Auditor



ASSESSOR Todd Griffin	ATTORNEY Scott Sweat	CLERK/AUDITOR Joey D Granger	RECORDER Marcy Murray	SHERIFF Jared Rigby	SURVEYOR James Kaiserman	TREASURER Diane G Burgener	JUSTICE COURT JUDGE Brook Sessions
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25 North Main • Heber City, Utah 84032 • (435) 654-3211 • [www.wasatch.utah.gov](http://www.wasatch.utah.gov)



## EXHIBIT R – Heber City MOU

[NOTE TO COUNTY: THIS INITIAL DRAFT IS BEING SUBMITTED BY THE CHURCH OF JESUS-CHRIST OF LATTER-DAY SAINTS IN CONNECTION WITH AN APPLICATION FOR A TEMPLE SITE IN WASATCH COUNTY. THE CHURCH ANTICIPATES THAT THE PARTIES WILL EDIT AND REVISE THIS DRAFT AS THE COUNTY'S DESIGN REVIEW PROCESS PROCEEDS.]

### MEMORANDUM OF UNDERSTANDING

#### **(Maintenance of a Portion of Center Street)**

This *Memorandum of Understanding* (“MOU”) is made by and among Wasatch County, a political subdivision of the State of Utah (“County”), Heber City, a political subdivision of the State of Utah (“City”), and the Church of Jesus Christ of Latter-day Saints, a Utah corporation sole (“Owner”), effective as of the date signed by all parties, as evidenced on the signature page(s) hereto (“Effective Date”). The County, City, and Owner are each a “party” to this MOU, collectively they are the “parties” hereto.

#### **RECITALS**

**A.** Owner holds title to certain parcels of real property located in Wasatch County, Utah, commonly known as Wasatch County Parcel Nos. 08-9990 and 12-1884 (collectively, the “Property”).

**B.** The Property comprises approximately 17.23 acres of land and is adjacent to, and to the south of, Center Street. Owner proposes to develop the Property as a site for religious worship. A site plan for the intended project (“Site Plan”) is attached hereto as Exhibit A.

**C.** The Property is within the unincorporated portion of Wasatch County. The portion of Center Street which is adjacent to the Property (“Designated Street Segment”) is largely within the municipal boundaries of Heber City. However, a portion of the right of way for the Designated Street Segment will remain within the unincorporated portion of Wasatch County.

**D.** Owner has applied to the County for a Site Plan and a final subdivision application for a Small-Scale Subdivision for the Temple Project (“County Applications”), and all rights and obligations in this MOU are conditioned upon County approval of the final subdivision approval and site plan approval.

**D.E.** Because the Designated Street Segment will lie within two different jurisdictions, in this MOU, the parties wish to set forth their respective obligations relating to the improvement and maintenance of the Designated Street Segment.

#### **AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the parties agree as follows:

1. Recitals Incorporated. The foregoing Recitals are incorporated into, and made part of, the parties agreement.

2. Dedication of Right of Way. Owner will dedicate a portion of the right of way for the Designated Street Segment to the public. Even though such portion of the right of way is located in unincorporated Wasatch County, Owner will dedicate the right of way to the City and the City will accept such dedication.

3. Parties' Construction Obligations.

3.1. New Collector Street. A new collector street ("**New Collector Street**") is anticipated to be constructed going north from Center Street on the north side of the Property and east of the Humbug Canal. With the exception of the Roundabout and connection of the Roundabout into said New Collector Street, Owner will not be responsible for construction or costs associated with the New Collector Street.

3.2. Roundabout. The parties agree that a traffic roundabout ("**Roundabout**") will be installed as a traffic control device at the intersection of the New Collector Street and Center Street pursuant to standards and a final design to be approved by the City. Owner will be solely responsible for design, construction and all related costs of the Roundabout.

3.3. Right of Way Improvements. The Owner will be solely responsible for installing the street, gutter, and other right of way improvements on the south side of the Designated Street Segment, including, pavement, curb, gutter, sidewalk, and other improvements beyond the back of curb consistent with the Site Plan. Improvements within the traffic right of way will be installed pursuant to standards set by the City. Other improvements will be installed pursuant to applicable standards imposed by the County. Owner shall have no responsibility to install any improvements on the north side of the Designated Street Segment with the exception of those required for the Roundabout including surface restoration.

3.4. Lighting. Owner will install all street lighting for the Designated Street Segment which will include (south side only): two streetlights on the Roundabout (one on the northeast and one on the southwest); one streetlight at the west side of the east entrance to the Property; and three other streetlights along the frontage of the Property according to the Heber City Standards. All streetlights on the Property will comply with the County's recently-adopted Exterior Lighting Ordinance (Ordinance No. 23-01).

3.5. Pedestrian Trail. As shown on the Site Plan, Owner will install a perimeter trail ("**Trail**") on the exterior of the Property adjacent to the Designated Street Segment. Owner may elect to install light bollards on the Trail consistent with applicable standards imposed by the County.

4. Parties' Maintenance Obligations.



4.1. City's Obligation. The City hereby accepts the obligation to maintain the right of way improvements for the Designated Street Segment to the back of curb. The City shall also maintain all streetlights within the Designated Street Segment built according to Heber Standards.

4.2. Owner's Obligation. Owner hereby accepts the obligation to maintain all right of way improvements (except street lighting) beyond the back of curb consistent with applicable standards imposed by the County. The Owner will maintain the Trail and any light bollards consistent with applicable standards imposed by the County.

5. Term of MOU. The term of this MOU will be twenty-five (25) years after the Effective Date, unless previously terminated by the joint agreement of all parties. This MOU may be recorded with any final plat for the Property. The maintenance requirements of the Owner are intended to run with the land, and shall remain for the life of the project approved with the County Applications, unless the County or another governmental entity assumes those maintenance obligations in writing.

6. Approvals. Each party represents and warrants to the other parties that the representing party has received all approvals necessary to execute this MOU and perform hereunder. Owner has applied for the County Applications, and all rights and obligations in this MOU are conditioned upon County approval of the County Applications, and the recording of the associated final plat. County may execute the MOU prior to approval or denial of the County Applications.

7. Default and Remedies. No party will be deemed in default under this MOU unless the defaulting party is given written notice and the alleged default remains uncured for a period of thirty (30) days after such party's receipt of written notice. The parties will be entitled to pursue any remedy available at law or in equity with respect to a breach of this Agreement; provided, however, that no party will be liable for any indirect, consequential, or exemplary damages.

8. No Personal Obligations. No employee, officer, official, representative, elected officer, or agent will be personally liable for the obligations and duties of any party to this MOU.

9. Notices. Any notice required or permitted hereunder must be given in writing via personal delivery, overnight delivery by a national carrier, or certified U.S. Mail. The parties' addresses for notice are set forth on the signature page(s) to this MOU. Any party may change its address for notice by giving written notice of the change in the manner provided herein.

10. No Assignment. The parties' rights and obligations under this MOU may not be assigned or transferred without the consent of the other parties to this MOU.

11. Miscellaneous. This MOU is for the benefit of the parties hereto only. No third-parties are intended as beneficiaries or parties with rights hereunder. This MOU may be executed in

counterparts. This MOU represents the entire agreement of the parties with respect to the subject matter of this MOU. This MOU may be amended only in a written instrument signed by all parties. This MOU is governed by the laws of the State of Utah. In the event of any action to interpret or enforce this MOU, the parties consent to the jurisdiction courts situated in Wasatch County, Utah.

*[End of MOU. Signature Page(s) Follow:]*



**EXHIBIT S – Legislative Development Agreement**

**[NOTE TO COUNTY: THIS INITIAL DRAFT IS BEING SUBMITTED BY THE  
CHURCH OF JESUS-CHRIST OF LATTER-DAY SAINTS IN CONNECTION WITH AN  
APPLICATION FOR A TEMPLE SITE IN WASATCH COUNTY. THE CHURCH  
ANTICIPATES THAT THE PARTIES WILL EDIT AND REVISE THIS DRAFT AS  
THE COUNTY’S DESIGN REVIEW PROCESS PROCEEDS.]  
SEPTEMBER 5, 2023 REVISION**

When Recorded Return To:

THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS  
Attn: David A. Channer, Assoc. General Counsel  
50 E. North Temple Street, Room 288W  
Salt Lake City, Utah 84150-0302

KIRTON | McCONKIE  
Attn: Loyal C. Hulme and Daniel C. Dansie  
50 E. South Temple Street, Suite 400  
Salt Lake City, Utah 84111

**DEVELOPMENT AGREEMENT FOR THE  
HEBER VALLEY UTAH TEMPLE**

This DEVELOPMENT AGREEMENT FOR HEBER VALLEY UTAH TEMPLE (“**Agreement**”) is entered into as of this [\_\_\_\_] day of [\_\_\_\_], 2023, by and between THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole (“**Owner**”, further defined below), and WASATCH COUNTY (“**County**,” further defined below), a political subdivision of the State of Utah. Owner and the County may hereinafter be referred to individually as a “**Party**” to this Agreement and collectively as the “**Parties**” hereto. This Agreement supersedes and replaces any previous agreements entered into or representations made by and between the Owner and the County involving the Property, defined below.

**RECITALS**

A. The County, acting pursuant to its authority under Utah Code §§ 17-27a-101, *et seq.*, 17-53-223, 17-53-302(13),<sup>1</sup> as amended, or the Wasatch County Code (“**County Code**”, further defined below), as amended, and in furtherance of its land use policies, goals, objectives, ordinances, and regulations, in the exercise of its discretion, has elected to approve and enter into this Agreement.

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<sup>1</sup> All references to the Utah Code and County Code are references to the provisions in force as of the Acceptance Date, defined below.

B. Owner holds legal title to the real property, consisting of approximately 18.17 acres located in the unincorporated portion of the County, as described in **Exhibit A** attached hereto (“**Property**”).

C. The Property currently has a zoning designation of RA-1 Residential Agricultural (“**Zone**”). The Owner has not applied for, nor is the County approving, a change to the zoning map or the text of Title 16 of the County Land Use and Development Code.

D. Owner is seeking to develop the Property as a site consisting primarily of a house of worship for adherents of the Church of Jesus Christ of Latter-day Saints (“**Temple**”) together with other gardens, parking, and other uses appropriate for the Temple (the development of the Property consistent with this Agreement being the “**Project**”). Section 16.04.02 of the County Code defines a “Church or Temple” as a “building, together with its accessory buildings and uses, where persons regularly assemble for worship, which building, together with its accessory buildings and uses, is maintained and controlled by a religious body.” Under a page titled, “What is the Purpose of the Temple?,” the website of the Owner indicates the following regarding Owner’s beliefs related to its temples:

For members of the Church, a temple is the most sacred place of worship on the earth. It is unique from all other places of worship. It is designated as the only place where families can be united forever and where the most sacred gospel ordinances are performed. It is also a place where you can feel closer to Heavenly Father and Jesus Christ, a place of peace and revelation, a place where family relationships are strengthened, and a place to seek direction concerning life’s challenges.<sup>2</sup>

E. The County finds that the Project meets the definition of “Temple” because, among other things, the Temple will be used as a place where adherents of the Church of Jesus Christ of Latter-day Saints will regularly assemble to worship. The Owner has indicated that primary building of the Temple will be used for religious ordinances at least five (5) days a week, and the gardens, landscaping, and other uses within the Project will support the worship taking place in the Temple. This planned use of the Temple is consistent with how other temples owned and operated by Owner are used throughout the world. Thus, the County finds that “Church or Temple” is the appropriate use category for the Project. The County finds that the Temple will be considered under the general and more prevalent land use of “church” as used in the County Code.

F. The parties understand and agree that pursuant to Utah Code § 17-27a-528(2)(a)(iii), this Agreement allows for the “use or development of land that applicable land use regulations governing the area subject to [this Agreement] would otherwise prohibit” because the County’s “legislative body [has] approve[d] this Agreement in accordance with the same procedures for enacting a land use regulation.” This Agreement has been approved according to the processes set forth in Utah Code § 17-27a-502. The uses and Development rights that the otherwise applicable

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<sup>2</sup> <https://www.churchofjesuschrist.org/study/manual/families-and-temples/what-is-the-purpose-of-the-temple?lang=eng> (accessed on 5.30.2023).

land use regulations may prohibit are set forth in, among other places, Section 4 and Section 8 of this Agreement and their respective subparts. However, except as expressly set forth in this Agreement, Development of the Project will be pursuant to, and comply with, the County Code and other provisions of Applicable Law.

G. On May 9, 2023, Owner submitted the following applications related to the Project and paid all applicable fees (collectively, the “**Applications**”): (1) a final application for a Site Plan; and (2) a final subdivision application for a Small-Scale Subdivision. The Applications were deemed complete and accepted by the County on May 19, 2023 (“**Acceptance Date**”).

H. The County finds that the Project is consistent with the General Plan. Among other things, and in addition to findings made elsewhere in this Agreement, the County finds that the Project will enhance quality of life in Wasatch County and provide economic opportunities. (*See* General Plan, Chapter Three, Objective 11.1.) The County finds that some residents of the County are adherents of, or otherwise affiliated with, the Church of Jesus Christ of Latter-day Saints. The County further finds that worship in buildings such as the Temple forms an integral part of the spiritual life of adherents of the Church of Jesus Christ of Latter-day Saints. Consequently, the Project will satisfy a social need and enhance the quality of life for some County residents by providing a location for such persons to engage in religious worship that is important to those adherents, and otherwise exercise religious liberty. Based on the information associated with other temples operated by the Church of Jesus Christ of Latter-day Saints, the County finds that the Temple, and the adjoining grounds comprising the Project, will likely be a community attraction which draws persons from outside the County—indeed, from outside the State of Utah—including both adherents and non-adherents of the Church of Jesus Christ of Latter-day Saints, to visit the County. Visitors are likely to come for many reasons, including, to tour the Temple before it commences operations (which tours are open to the general public), to participate directly in ceremonies and ordinances held in the Temple, and to support or celebrate with persons who are participating in such ceremonies and ordinances. In so doing, visitors are likely to patronize local businesses or otherwise positively contribute to the County’s economy. Further, the County finds that one of the ordinances performed in the Temple, marriages, is likely to create the need for new or additional business within the County which are compatible with this use, such as wedding reception or celebration venues, catering operations, and the like. The County further finds that the Project will contribute to the existing Wasatch County Trail System. (*See* General Plan, Chapter Three, Objective 10.2.) As set forth more particularly in Section 8.9, below, the Project will incorporate a perimeter trail system which will be open to, and accessible by, the public. The County further finds that the Project will have dark sky compliant lighting. (*See* General Plan, Chapter Three, Policy 1.1.7.) As set forth more particularly in Section 8.5, below, the Project will comply with the provisions of the County’s recently-adopted Exterior Lighting Ordinance.

I. The County finds that pursuant to the Religious Land Use and Institutionalized Persons Act (“**RLUIPA**”) and the Utah Religious Land Use Act (“**URLUA**”) good cause exists for entering into this Agreement, establishing the rights set forth herein, and subjecting the Property to the obligations set forth herein. Among other things, the County makes the findings set forth in this Recital and incorporates findings made elsewhere in this Agreement, including other Recitals.



Adherents of the Church of Jesus Christ of Latter-day Saints consider the temples to be holy places which they refer to as the “House of the Lord.” Participation in ceremonies and ordinances performed only in temples constitute the highest form of earthly worship for adherents of the Church of Jesus Christ of Latter-day Saints. The number of adherents of the Church of Jesus Christ of Latter-day Saints within the geographic area to be served by the Temple, the projected growth of the County and surrounding areas, and visitors, including visitors from outside the State of Utah—who are likely to visit the Temple, requires that the Temple be of sufficient size and height, including the massing components approved herein, and contain sufficient facilities, to accommodate the needs of such persons. Likewise, the County finds, as asserted by the Owner, that one purpose of the exterior design, height, and other features of the exterior of the Temple is to inspire or encourage adherents of the Church of Jesus Christ of Latter-day Saints to “look to heaven” (which is symbolic to such adherents of the presence of God) and to remember the important components of the worship which take place in the interior of the Temple even when such adherents do not physically enter the Temple. Some courts have recognized the specific religious importance of exterior features, such as steeples, found in or on the temples constructed by the Church of Jesus Christ of Latter-day Saints. *See, e.g., Martin v. Corp. of Presiding Bishop of The Church of Jesus Christ of Latter-day Saints*, 747 N.E.2d 131, 137 (Mass. 2001) (Upholding a local land use authority’s determination that it “is clearly part of [the church’s] theology to reflect, in their buildings, the belief of an ascension towards heaven” and “that steeples, by pointing towards heaven, serve the purpose of lifting [church members’] eyes and thoughts towards heaven.”) Thus, pursuant to RLUIPA and URLUA the County finds, and Owner agrees, that allowing the Temple to have the size, height, massing, and other characteristics provided for herein is the least restrictive means of protecting the County’s compelling interest in regulating land use and design of developments within the County and that greater or stricter restrictions than provided for in this Agreement would unreasonably limit the religious structure and assembly contemplated herein.

J. On [date of Planning Commission hearing], following review and recommendation by the County’s Development Review Committee, and after notice as required under Utah Code § 17-27a-205, the Applications were recommended at a public hearing by the Wasatch County Planning Commission (“**Planning Commission**”) to the County legislative body. The Planning Commission also recommended that this Agreement be forwarded for consideration by the County’s legislative body (“**County Council**”, further defined below). Because this Agreement is a legislative development agreement in connection with which the Applications are also being considered and approved, the County Council will serve as the land use authority for the Applications. *See* Section 16.01.05 of the County Code; Utah Code § 17-27a-103, 501, 528.

K. The Parties desire to enter into this Agreement to memorialize certain conditions and agreements which relate to the Project and to help clarify the process for development of the Project. Without limitation, the purpose of this Agreement is to: (1) enumerate the process of the Applications as permitted uses for the Property and the approved scope of the Project; (2) identify processes for mitigating any environmental impacts; (3) ensure installation of necessary on-site and off-site public improvements; (4) make provision for trail facilities; (5) provide for the timely payment of all fees and charges, including impact fees in the amounts set forth herein; (6) ensure

that public services appropriate to the development of the Project are provided; (7) provide for the maintenance of water retention facilities, trails and open space within the Project during construction and after completion; (8) otherwise achieve the goals and purposes of the County and Owner; (9) identify responsibilities of the Owner and subsequent developers; (10) designate all improvements committed to by the Owner as part of the Final Plan Approval process; (11) provide for the dedication of certain property for the improvement of public roads; (12) provide a record of minutes, staff reports, Power Point presentations and plans; and (13) clarify the approval of the Applications in accordance with Applicable Law as modified by this Agreement.

L. On [date of County Council hearing], after notice as required under Utah Code § 17-27a-205, the County Council adopted Ordinance No. [insert ordinance number] (“**Temple Project Ordinance**”) approving the Applications and this Agreement. Such approvals are collectively referred to herein as the “**Current Approvals**.”

M. The Parties intend that this Agreement, and the County’s approval of this Agreement pursuant to the Temple Project Ordinance, constitute a Land Use Regulation, as that term is defined in Utah Code § 17-27a-103.

N. Each Party acknowledges that it is entering into this Agreement voluntarily, having had the chance to review the Agreement and the terms hereof with attorneys and other advisors of such Party’s choosing.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and provisions set forth herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

## **AGREEMENT**

### **SECTION 1. EFFECTIVE DATE AND TERM**

1.1. Effective Date. This Agreement shall become effective on the date it is executed by Owner and the County (“**Effective Date**”). The Effective Date shall be inserted in the introductory paragraph preceding the Recitals.

1.2. Term of Agreement.

1.2.1 Term. Subject to Section 1.2.2, the term of this Agreement (“**Term**”) shall continue for a period of up to Twenty-Five (25) years after the Effective Date, unless otherwise agreed between the County and Owner in writing. In connection with all Development Applications for Development activities related to the Project, Owner will proceed with reasonable diligence in conformity with Section 16.1.16 of the County Code. Legal challenges that may toll the ability of the County or the Owner to move forward as required under Section 16.01.16 of the County Code and will toll the deadlines therein.

1.2.2 Continuing Nature of Approvals. Upon termination of this Agreement, for any reason, the existing or prospective obligations of the Parties to each other hereunder shall terminate, but none of the recorded plats, site plans, licenses, building permits, or certificates of occupancy, or other approvals granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner due to the expiration or termination of this Agreement. No easements, maintenance requirements, infrastructure improvement obligations, or other agreements which are intended to run with the land, including obligations that were based upon such approvals, shall expire upon termination or expiration of this Agreement.

1.3 Legislative Enactment. As set forth in the foregoing Recitals, this Agreement has been approved by the County Council pursuant to Utah Code § 17-27a-502 after notice as required under Utah Code § 17-27a-205. Thus, pursuant to Utah Code § 17-27a-528, and as set forth in the Recitals, this Agreement allows uses and Development of land that applicable land use regulations would otherwise prohibit. The County Council finds this Agreement is consistent with the General Plan in all material respects for this Project, notwithstanding any particular provision or provisions of the General Plan which may be interpreted to be inconsistent with this Agreement, and regardless of any contrary provision of the County Code.

## SECTION 2. DEFINITIONS

The terms or phrases below shall have the meanings given in this Section when used in this Agreement. Other terms may be defined elsewhere in the Agreement. Unless otherwise indicated, the plural of any term shall have the same meaning as the singular, and vice-versa.

“**Acceptance Date**” means May 19, 2023, the date the County accepted the Applications.

“**Applicable Law**” has the meaning set forth in Section 4.4.1 of this Agreement.

“**Applications**” has the meaning set forth in the Recitals of this Agreement.

“**Changes in the Law**” has the meaning set forth in Section 4.4.3 of this Agreement.

“**City**” means Heber City, a municipal corporation and a political subdivision of the state of Utah.

“**Conditions to Current Approvals**” has the meaning set forth in Section 3.1.2 of this Agreement.

“**County**” means Wasatch County, a political subdivision of the State of Utah, and shall include, unless otherwise provided, any and all of the County’s agencies, bodies, departments, officials, employees or agents. References herein to findings made by the County mean findings made by the County Council, which findings may have been recommended by the Planning Commission.

**“County Code”** means the Wasatch County Code in effect as of the Acceptance Date.

**“County Council”** means the County’s governing legislative body.

**“Current Approvals”** has the meaning set forth in the Recitals of this Agreement.

**“Development”** means the planning, design and construction of buildings, amenities, infrastructure and other improvements pursuant to and consistent with the Current Approvals.

**“Development Application”** means any application for the approval of Development within the Project, to the extent an application is required under the Applicable Law, which is submitted after the Effective Date.

**“Director”** means the Director of the Wasatch County Planning and Zoning Department (or any successor body or department which oversees approval of planning and development for the County), or his or her designee.

**“Effective Date”** means the date referred to in Section 1.1 of this Agreement.

**“Exterior Lighting Ordinance”** means Ordinance No. 23-01 adopted by the County Council at a duly noticed public meeting on April 19, 2023. The Exterior Lighting Ordinance has sometimes been referred to by the County and others as the **“Dark Sky Ordinance.”**

**“Final Plan”** means the proposed final site plan for the Property which is attached as **Exhibit B** to this Agreement.

**“General Plan”** means the General Plan of Wasatch County, as approved by the County Council, which is in effect as of the Acceptance Date.

**“LUDMA”** means the County Land Use, Development, and Management Act, Utah Code § 17-27a-101, *et seq.*

**“MOU”** has the meaning set forth in Section 8.6 of this Agreement.

**“Owner”** means those entities or persons identified as Owner in the preamble, and shall include Owner’s successors in interest, transferees and assigns, including, where applicable, assignments to successors in interest or assignees of Owner’s rights and obligations under this Agreement. The obligations of Owner shall automatically be assigned to subsequent purchasers of the Project, and subsequent purchasers of the Project or any portion thereof shall expressly assume the obligations of Owner pursuant to this Agreement.



“**Project**” means the Property and the development on the Property which is the subject of this Agreement, any ancillary and additional improvements or endeavors incident to the development of the Project.

“**Project Improvements**” means all infrastructure improvements intended for public or private use and located within the boundaries of the Project, including but not limited to sewer lines, water lines, roads, electricity, gas, telephone, detention basins, curb and gutter, trails, and recreational facilities.

“**Property**” means the parcel or parcels of land which are the subject of this Agreement, and which are more particularly described in **Exhibit A**.

“**RLUIPA**” means the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc, *et seq.*

“**Temple**” has the meaning set forth in the Recitals of this Agreement.

“**Temple Project Ordinance**” has the meaning set forth in the Recitals of this Agreement.

“**URLUA**” means the Utah Religious Land Use Act, Utah Code §§ 63L-5-101, *et seq.*

### **SECTION 3. OBLIGATIONS OF OWNER AND THE COUNTY**

#### **3.1. Obligations of Owner.**

3.1.1. Generally. The Parties acknowledge and agree that the County’s agreement to perform and abide by the covenants and obligations of the County set forth herein is material consideration for Owner’s agreement to perform and abide by the covenants and obligations of Owner set forth herein.

3.1.2. Conditions to Current Approvals. Owner shall comply with all of the following conditions (collectively “**Conditions to Current Approvals**”):

3.1.2.1. Compliance With Conditions Imposed by County. Owner agrees to comply with the conditions recommended and approved by County Council in connection with the approval of the Applications as set forth in this Agreement or attached hereto as **Exhibit C**. Owner understands and agrees that the representations made by Owner as part of the approval of the Applications are part of the basis for such approval and as such are integral components of the Current Approvals.

3.1.2.2. Payment of Administrative Fees. Owner agrees to pay all generally applicable Wasatch County fees required under Applicable Law as a condition of developing the Property and Project.

3.1.2.3. Payment of Impact Fees. Wasatch County has enacted an impact fee ordinance. Subject to adjustments approved by the Director or the County Council, Owner agrees to pay the applicable impact fees due and payable in connection with any structure built by Owner, or Owner's agent, employee, contractor, or subcontractor.

3.1.2.4. Payment of Special Service District Fees and Charges. Owner agrees to pay any and all fees imposed by the service districts providing services to the Project, including (but not limited to) fees for plan check and engineering review. The following services will be provided to the Project by special service districts, each of which has issued to Owner a "will serve" letter agreeing to provide the applicable services to the Project:

<b>Service</b>	<b>Entity Providing Service</b>
Culinary Water	Twin Creeks Special Service District
Irrigation Water	Twin Creeks Special Service District
Trash Removal	Wasatch County Solid Waste Special Service District
Sanitary Sewer	Twin Creeks Special Service District
Electricity	Heber Light & Power

3.1.3. Construction of Project Improvements. Owner will construct the Project Improvements associated with the Project, consistent with the Final Plan. Project Improvements include: (a) any roads and other improvements within the public rights-of-way within the Project, sidewalks, curb, gutter, street lighting, signage, and wet and dry utilities within such rights-of-way, within or adjacent to the perimeter or boundary of the Project; (b) all emergency and secondary access to the Project to the extent set forth in the Final Plan; (c) utility lines or facilities within the Project, or adjacent to the Project and necessary to provide utility service for the Project; (d) trails shown as shown on the Final Plan, including within or adjacent to the Project; (e) landscaping in areas inside of Project; and (f) all other improvements or dedications that are required within the Project or adjacent to the Project required by the County Code. Project Improvements shall be inspected and accepted by the County or other applicable utility service providers in writing prior to the issuance of a certificate of occupancy for any building within the Project. As set forth in Section 8.5 of this Agreement, the lighting shall be installed in a manner that meets the requirements of the Lighting Plan, as defined in Section 8.5, below, including any fine tuning of the foot-candle levels, shielding or other lighting installation issues, prior to issuance of a certificate of occupancy for the Temple. Also, for the avoidance of doubt, to the extent Twin Creeks Special Service District or any other utility provider will own or operate any portion of the Project Improvements, such portion of the Project Improvements will be constructed to the standards required by such utility provider. When construction is complete, such portion of the Public Improvements will be approved by the applicable utility provider and the utility provider will inspect and accept such portions of the Public Infrastructure. The issuance of a building permit does not waive any requirements related to Project Improvements.

3.1.4. Maintenance of Trails. The Final Plan identifies and trails for the Project. In the event Owner fails to maintain the trails in a manner consistent with comparable public areas maintained by the County, then the County may (but is not obligated to) maintain the trails after written notice to Owner except in emergency situations. The market value of the cost of any maintenance performed by the County pursuant to this Agreement shall be paid to the County within thirty (30) days after written demand to Owner and the County will have such rights to collect the same as are provided for under Section 16.27.23(B)(4) of the County Code.

3.1.5. Storm Water Management. The Final Plan will incorporate appropriate facilities to manage on-site storm water consistent with the County Code. Such facilities must be completed and operational prior to any certificates of occupancy for buildings in the Project being issued. The storm water facilities shall be maintained in accordance with manufacturer recommendations, or according the County Code for detention basins, as applicable. A system maintenance plan, based on manufacturer recommendations for the initial underground storm water detention facilities, are attached hereto as **Exhibit E**. Notwithstanding the foregoing, Owner may update and replace the storm water infrastructure in accordance with the Applicable Law, and shall provide updated maintenance recommendations upon request of the County. If maintenance of storm water facilities is not completed as required, the County may, but is not obligated to maintain the on-site storm water facilities, after written notice to Owner except in emergency situations. The market value of the cost of any maintenance performed by the County pursuant to this Agreement shall be paid to the County within thirty (30) days after written demand to Owner and the County will have such rights to collect the same as are provided for under Section 16.27.23(B)(4) of the County Code.

3.1.6. Bonding.

3.1.6.1. Performance Bonds and Warranty Bonds. Prior to any subdivision plat for the Project being recorded, or the issuance of any building permits in the Project, any Project Improvements which are to be dedicated to the public shall be completed, or bonded for with the appropriate governmental entity. Approval of any plat will be contingent on a performance bond being issued for 100% of the uncompleted portion of the public Project Improvements that must be completed in connection with development of the area shown on such plat, unless such portion of the Project Improvements are actually constructed and approved prior to the recording of the plat. The procedure for posting of any performance bond shall be in accordance with Section 16.27.21 of the County Code. Owner shall also post with the appropriate governmental entity a warranty bond for ten percent (10%) of the cost of completion of any Project Improvements which will be dedicated to the public. Included with the bond shall be an itemized engineer's cost estimate of all onsite and offsite improvements, trails, landscaping and any other amenities that are required as part of the Final Plan. Any bonds for the improvements to Center Street which are required by the City must be timely placed with the City according to its policies and procedures. The Center Street improvements will be inspected and approved by the City. The County Manager may require for the Center Street improvements either be completed or bonded

for with the City as a condition of recording a plat for the Project or for issuing development permits.

3.1.6.2. No Third Party Rights. All bonds, including but not limited to performance, warranty bonds, and related agreements are between the County, Owner (or contractor if applicable), and financial institution. No other person or entity shall be deemed a third-party beneficiary or have any rights under this subsection or any bond or agreement entered into pertaining to bonds. Any other person or entity, including but not limited to owners of individual units or lots, shall have no right to bring any action under any bond or agreement as a third-party beneficiary or otherwise.

3.1.7. Private Drives.

3.1.7.1. Road Maintenance. There will be no roads on the interior of the Project, and all entranceways, pathways, driveways and parking areas on the interior of the Project will be private roads, unless the County and the Owner agree otherwise in writing. Center Street and the stub of Pimlico Drive will remain public roads. Private driveways and parking areas shall be constructed in accordance with County standards. The Owner shall maintain the driveways and the parking areas, providing the same level of service provided to other similar facilities in the County.

3.1.7.2. Snow Removal and Fire Access. Owner shall provide snow removal on all private driveways and parking areas in the Project. In addition to private roads Owner shall provide access to the Temple for fire apparatus in locations shown on **Exhibit G** attached hereto. Owner shall keep any ground cover or foliage in the fire access areas six inches (6") or less in height. Owner will not stockpile snow higher than six inches (6") in the fire access area shown on **Exhibit G**.

3.1.8. Owner Liabilities. The obligations of Owner shall automatically be assigned and assumed by subsequent purchasers of the Project, but the Owner shall not be released from the Project Improvement obligations as a result of the assignment and the assumption by subsequent purchasers. In the event that the Property is conveyed in part, the fee owner of that portion of the Property assumes the obligations of this Agreement applicable to such portion.

3.2. Obligations of the County.

3.2.1. Generally. The Parties acknowledge and agree that Owner's agreement to perform and abide by the covenants and obligations of Owner set forth herein is material consideration for the County's agreement to perform and abide by the covenants and obligations of the County set forth herein.

3.2.2. Limit on Conditions to Current Approvals. The County shall not impose any further Conditions to Current Approvals other than those detailed in this Agreement, unless agreed to in writing by the Parties.



3.2.3. Acceptance of Project Improvements. The County agrees, subject to the terms of this Agreement, to accept those Project Improvements to be dedicated to the County, in accordance with the County Code.

3.2.4. Additional Obligations of the County.

3.2.4.1. Road Maintenance and Snow Removal. Center Street and the stub of Pimlico Drive adjacent to the Project shall be public roads. The County will maintain and provide snow removal for the stub of Pimlico Drive, providing the same level of service provided to other Class B Roads in the County. The parties expect that the City will maintain and provide snow removal for the portion of Center Street which is adjacent to the Project as set forth in the MOU described below.

**SECTION 4. OWNER VESTED RIGHTS AND APPLICABLE LAW.**

4.1. Owner Rights. The Owner has the right to develop the Project in accordance with this Agreement including, without limitation, the rights set forth in this Section 4 (and its subparts) and the rights set forth in Section 8 of this Agreement, below.

4.1.1. Generally. As of the Effective Date of this Agreement, Owner has the vested right to proceed with the development of the Property and the Project in accordance with the approvals granted in this Agreement, the Final Plan, and the Current Approvals, for the term of the Agreement.

4.1.2. Permitted Use. Pursuant to RLUIPA and URLUA, the County finds that permitting the use of the Property for the Temple and the Project—subject to the terms, limitations, conditions, and obligations of this Agreement—is the least restrictive means of furthering the County’s compelling governmental interest in imposing a cohesive, County-wide zoning framework. Thus, notwithstanding any contrary provision of Section 16.08.02, Section 16.08.03, or Section 16.21.11 of the County Code, the County finds that Project, including the Temple, is a permitted and approved use for the Property, subject to the terms, limitations, conditions, and obligations of this Agreement. Without limitation, to the extent that Section 16.08.03 or Section 16.21.11 of the County Code would otherwise require the Owner to obtain a conditional use permit with respect to the Project, both for the ‘religious activities’ use and the greater height for a church, the Planning Commission and the County Council—in approving this Agreement—have found that appropriate standards for approval have been satisfied in the case of the Project. Specifically, and in addition to other findings set forth herein, the Owner has asserted, and the County accepts the following findings with respect to issues raised in Section 16.23.07 of the County Code, not by way of granting a conditional use permit for the Project, but by way of addressing how the standards of Section 16.23.07 of the County Code could be met, especially when interpreted in light of RLUIPA or URLUA.

4.1.2.1. Compliance with Land Use Code. The Project complies with all the requirements of Title 16 of the County Code, as modified by the Temple Project Ordinance and this Agreement.

4.1.2.2. Licensing. Owner will hold and maintain any business licenses required in connection with the operation of the Project.

4.1.2.3. Compatibility of Use. The Project primarily adjoins residential uses. The religious nature of the use of the Project is compatible with, and does not adversely affect, the surrounding uses. The Project is consistent with such residential uses in terms of the Project's use, location, scale, mass, design, and circulation—subject to the limitations set forth in Section 8 of this Agreement and its subpart. As described in Section 8.2, the Temple building is set back from the boundary lines of the Property and is situated in an appropriate location on the Property. The size and massing of the Temple in relationship to the overall size of the Property creates an appropriate scale. The Property is about 18 acres, whereas the RA-1 zone allows for development on one acre lots. Owner has designed the Temple in a manner which contains necessary size, design features, and massing given religious purposes of the Temple. The design of the Temple is harmonious with other historical buildings within the County and does not detract from surrounding residential buildings adjacent to the Property. The Project has two (2) ingress-egress access points to Center Street and the internal traffic circulation pattern has been approved by the Wasatch County Fire District.

4.1.2.4. Mitigating Visual and Safety. The visual impacts of the Temple building are adequately mitigated by the building's setback from the Property's boundary lines and the other terms, limitations, conditions, and obligations of this Agreement adequately mitigate any safety concerns.

4.1.2.5. General Plan. The use of the Property as a Temple is consistent with the General Plan, including for the reasons set forth in the Recitals of this Agreement.

4.1.2.6. Expansion. The Project is not expandable in scale or use.

4.1.2.7. Lighting, Parking, and Location. Issues relating to the lighting for the Project will be pursuant to the Exterior Lighting Ordinance, as provided in Section 8.5 of this Agreement. The Exterior Lighting Ordinance has been challenged in State Court. However, regardless of whether the Exterior Lighting Ordinance is overturned as a result of that process, the parties agree that the lighting for the Project will be governed by the terms, conditions, and obligations of the Exterior Lighting Ordinance as approved in the Lighting Plan and to be verified in the field during construction of the Temple. The character of the use and the surrounding developments are sufficiently harmonious with the Project as set forth in Section 4.1.2.3, above. The City has indicated that Center Street—which is a collector street adjacent to the Project—has sufficient capacity to handle the anticipated traffic for the Project, with the addition of the proposed round-about which the

Parties expect will be constructed pursuant to the MOU. The New Collector Street, described in Section 8.8.2, below, will further provide capacity for the anticipated traffic. Other relevant issues relating to parking, drainage, erosion, soil stability, wildlife impacts, dust, odor, noise and vibrations, etc., are adequately mitigated through the terms, limitations, conditions, setbacks, site plan provisions, and obligations set forth in this Agreement.

4.1.2.8. Financial Burden. The Project will not create an unreasonable financial burden on the County or on surrounding properties because Owner will be responsible to fund the development of any and all onsite infrastructure and the required off-site improvements identified in this Agreement or under Applicable Law. In addition, Owner and the County expect to enter the MOU with the City describing the Parties' obligations with respect to the maintenance of the relevant portion of Center Street.

4.1.2.9. Health, Safety, and Welfare. The religious nature of the Temple provides a direct social benefit for some County residents who are adherents of the Church of Jesus Christ of Latter-day Saints. Further, as set forth in the Recitals of this Agreement, the use anticipated by the Project is not adverse to the health, safety, or welfare of the residents of, and visitors to, the County.

4.1.2.10. Development Applications. As set forth in Section 4.2, below, Owner will obtain appropriate permits and approvals required in connection with further Development. As set forth in Section 4.4.1, below, such approvals will confirm with the IBC.

4.1.3. Specific Development Rights and Obligations. Without in any way limiting the foregoing, Owner has the vested right to develop the Project in accordance with the Final Plan and pursuant to the terms, conditions, obligations, and restrictions set forth in this Agreement, including this Section 4, and its subparts, and Section 8, and its subparts.

4.2. Processing Development Applications. The County shall approve Development Applications if they comply with Applicable Law and conform to this Agreement.

4.2.1. Timing. The County agrees to respond to Development Applications in a timely manner, consistent with the requirements of Applicable Law. Owner reserves all rights and remedies with respect to the County's failure to timely review and respond to a Development Application.

4.2.2. Final Action. The County will approve a Development Application so long as the Development Application is complete and complies with Applicable Law, including this Agreement. Owner may appeal any Denial of a Development Application as provided in the County Code and LUDMA.

4.3. Reserved Legislative Powers. Nothing in this Agreement shall limit the future exercise of the police power by the County in enacting zoning, subdivision, development,

transportation, environmental, open space, and related land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of the County to enact such legislation under its police power, such legislation shall not modify Owner's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah, 1988), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

#### 4.4. Laws Applicable to the Parties' Performance.

4.4.1. Applicable Law. Unless otherwise set forth in this Agreement, the rules, regulations, official policies, standards and specifications applicable to the development of the Property ("**Applicable Law**"), shall be the County's rules, regulations, official policies, standards and specifications, including the County Code, and other applicable state law, and federal law in effect as of the Acceptance Date. For the avoidance of doubt, the County agrees that Applicable Law includes the 2021 version of the International Building Code ("**IBC**"). However, notwithstanding the foregoing, any person submitting a Development Application shall be subject to updates to the building, electrical, mechanical, plumbing, and fire codes, and other technical specifications of the County Code, including the IBC, relating to the placement and construction of the proposed structure referenced in the Development Application, which are in effect at the time the person files with the County a completed Development Application. Nevertheless, on and after the Effective Date, Owner and County may agree, in each's sole discretion, to have a Development Application reviewed under any or all laws and standards in effect at the time the Development Application is submitted rather than under Applicable Law.

4.4.2. Effect of Conflict. Except as provided herein, development of the Project will be consistent with the County Code and other provisions of Applicable Law. In the event of a conflict between Applicable Law and this Agreement, including its Exhibits, then the provisions of the Agreement and its Exhibits shall control to the fullest extent possible. Specifically, certain provisions of this Agreement and its Exhibits may supersede and replace provisions of the County Code, but only with respect to the Project. Pursuant to the Act (Utah Code § 17-27a-528), this Agreement and its Exhibits have been approved by the County's legislative body in accordance with the same procedures, including notice provisions, used for enacting a land use regulation under Utah Code § 17-27a-502, including a review and recommendation from the Planning Commission, and a public hearing.

4.4.3. State and Federal Law. Notwithstanding any other provision of this Agreement, this Agreement shall not preclude the application of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations ("**Changes in the Law**") applicable to the Property, provided such Changes in the Law are generally applicable to other similarly situated properties. In the event the Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement shall be modified or suspended, or performance



thereof delayed, as may be necessary, but only to the extent necessary to comply with the Changes in the Law.

## SECTION 5. AMENDMENT

5.1. Administrative Amendments. It is the County's practice, in connection with the prosecution and enforcement of any land use decision, to administratively approve minor, inconsequential modifications, as determined in the discretion of the County. That process and the applicable standards are discussed in Section 16.27.10(D) of the County Code in the context of changes from preliminary approvals to final applications, but the concept is applied in the prosecution and enforcement of final approvals as well. In accordance with the County's standard practice regarding land use decisions, Owner may, from time to time, propose amendments to the Agreement which, if proposed by Owner, may be considered and approved by County officials as outlined below, but only if such amendment represents a minor, inconsequential change to the Agreement, and if such amendment is otherwise in compliance with Applicable Law. Nevertheless, Owner or the County official, may refer any amendment initially proposed by the Owner to be considered by the County Council for approval under Section 5.2 of this Agreement.

5.1.1. Infrastructure. Minor, inconsequential changes of the location or sizing of the Project Infrastructure that does not materially change the functionality of the Project may be approved administratively by the County Engineering Coordinator or designee.

5.1.2. Design Guidelines. During buildout of the Project, Owner may propose, and the Director may administratively approve, minor, inconsequential changes to the guidelines and standards for design of the Project ("**Design Guidelines**") attached hereto as **Exhibit D**, including to respond to availability of materials or to respond to community input.

5.1.3. Technical Edits. Minor technical edits or corrections to this Agreement and its Exhibits, including to the Final Plan, which are necessary to clarify or modify such documents consistent with their intended purpose, may be approved by the head of the County department or agency which would have primary review responsibility for the issue in the County's DRC review process.

5.1.4. Legal Description. Modifications to the legal description of the Property, including, without limitation, modifications to respond to any survey or resurvey of the Property, may be approved by the County Surveyor.

5.2. Amendments Generally. Unless otherwise stated in Section 5.1, above, the Parties may amend this Agreement by mutual written consent as approved by the County Council, and following any processes or hearings required under Applicable Law. No amendment or modification to this Agreement shall require the consent or approval of any person or entity having any interest in any specific lot, unit or other portion of the Project.

## SECTION 6. DEFAULT

6.1. General Provisions.

6.1.1. Defaults Generally. In the event any Party fails to perform any duty or obligation under this Agreement, the other Party shall give written notice (“**Notice of Default**”) as provided herein. The Notice of Default shall specify the nature of the alleged failure, provide documentation or evidence substantiating the alleged failure, and, where appropriate, shall state the manner in which said failure satisfactorily may be cured.

6.1.2. Cure Period. Any failure identified in a Notice of Default which continues uncured for a period of more than thirty (30) days following such Party’s receipt of the Notice of Default may be deemed a default hereunder, unless a different period is provided in this Agreement or such period is extended by written mutual consent, or as provided herein shall constitute a default under this Agreement. If the nature of the failure alleged in the Notice of Default is such that it cannot reasonably be cured within such period of thirty (30) days, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within the permissible period. Upon the occurrence of an uncured default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured prior to termination, then no default shall exist and the Party giving the Notice of Default shall take no further action. Except as otherwise provided in this Agreement, LUDMA or the County Code shall govern the appeal of any approval, denial, or failure to approve a land use application by the County.

6.2. Review of Agreement by County.

6.2.1. Generally. The County may from time to time, request that Owner demonstrate that Owner is in full compliance with any specific provision, term, or condition of this Agreement by providing written notice identifying the provision, term, or condition about which the County is inquiring. Owner shall provide any and all information reasonably necessary to demonstrate compliance with this Agreement as requested by the County within sixty (60) days of the request, or at a later date as agreed between the Parties.

6.2.2. Determination of Non-Compliance. If the County finds and determines that Owner has not complied with the terms of this Agreement, and noncompliance may amount to a default if not cured, then the County may deliver a Notice of Default pursuant to Section 6.1.1 of this Agreement. If the noncompliance is not timely cured by Owner, the County may terminate this Agreement.

6.3. Default by the County. In the event the County defaults under the terms of this Agreement, Owner shall have all rights and remedies provided in this Agreement and provided under Applicable Law.

6.4. Extension of Time for Performance. Notwithstanding anything to the contrary contained herein, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of any of the following (each an “**Event of Force Majeure**”): war, insurrection, terrorist acts, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, pandemics or epidemics, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environmental regulations, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Changes in the market, or the financial standing of the Parties shall not serve as a basis for excused performance. Upon the request of either Party hereto, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

## **SECTION 7. DEFENSE AND INDEMNITY.**

7.1. Owner’s Actions. Owner shall defend, hold harmless, and indemnify the County and its elected and appointed officers, agents, employees, and representatives from any and all claims, costs, judgments and liabilities (including inverse condemnation and attorney fees) for bodily injury or property damage which are asserted against the County and which arise directly or indirectly from the construction of the Project, or operations performed under this Agreement by: (a) Owner or by Owner’s contractors, subcontractors, agents or employees, or (b) any one or more persons directly or indirectly employed by, or acting as agent for, Owner or any of Owner’s contractors or subcontractors. Owner will have no obligation to indemnify for the actions of third-parties not identified in the preceding sentence. The Owner further releases any claims which Owner has or may have against the County and its elected and appointed officers, agents, employees, and representatives, arising directly out of the approval of this Agreement, except for willful misconduct or fraudulent acts by the County. Nothing in this section shall abrogate any defenses or immunities under the Utah Governmental Immunity Act.

7.2. Hazardous, Toxic, and/or Contaminating Materials. Owner further agrees to defend and hold harmless the County and its elected and/or appointed boards, officers, employees, and agents from any and all claims, liabilities, damages, costs, fines, penalties and/or charges of any kind whatsoever relating to the existence of hazardous, toxic and/or contaminating materials on the Project, but only to the extent the same are caused by or relate to the intentional or negligent acts of Owner, or Owner’s officers, contractors, subcontractors, employees, or agents.

7.3. Limitation on Indemnity. Nothing in this Agreement shall be construed to mean that Owner shall defend, indemnify, or hold the County or its elected and appointed representatives, officers, agents and employees harmless from any claims of personal injury, death or property damage or other liabilities arising from: (a) the willful misconduct or negligent acts or omissions of the County, or its boards, officers, agents, or employees; or (b) the negligent maintenance or repair by the County of any County facilities or improvements, including improvements that have been offered for dedication and accepted by the County for maintenance.

## **SECTION 8. SPECIFIC DEVELOPMENT RIGHTS AND OBLIGATIONS.**

8.1. Design Guidelines. Owner may develop the Temple and other structures within the Project generally according to exterior design standards and criteria set forth in the Design Guidelines attached hereto as **Exhibit D.**

8.2. Building Height. Notwithstanding any contrary provision of the County Code, the Temple may exceed the otherwise applicable height allowed in the Zone, subject to the limitations of this Section and its subparts. The County agrees that a distinction from the more typical height requirement in the Zone is appropriate for a number of reasons. As noted in Recital D, the Temple qualifies as a “Church or Temple” within the meaning of Section 16.04.02 of the County Code. Pursuant to Section 16.21.11 of the County Code, churches are entitled to additional height in the context of a conditional use permit. Although such a permit is not necessary here, in light of the approvals granted pursuant to this Agreement, as set forth in Section 4.1.2, above, the Owner asserts, and the County accepts that all the requirements for granting a conditional use are present in the case of the Project. Thus, additional height provided for below is justified. The County also finds that the Recitals of this Agreement also identify the justification for the height of the Temple. Moreover, in certain zones abutting residential zones, as setbacks increase, additional height is permitted. *See* Section 16.21.19(A) of the County Code, providing for two feet (2’) of building height over twenty feet (20’) for each additional one foot (1’) of setback beyond what is required. Although the Temple is not in a business, commercial, or industrial zone, the setbacks from Property’s boundary lines, as shown on the Final Plan, confirm that the maximum height provided for below is appropriate for the Property and is hereby approved.

8.2.1. Maximum Height of Main Structure. The main structure of the Temple, to the top of the screen parapet, shall not exceed a maximum height of one hundred feet (100’) above natural grade.

8.2.2. Towers. Consistent with the County Code, the spires, steeples, or towers on the Temple are not subject to the height limitation set forth in this Section and may be higher. Buildings other than the Temple situated within the Project will be limited to the otherwise applicable height allowed under the County Code. Without limiting the foregoing, the parties anticipate that the east tower may extend approximately one hundred forty-one feet (141’) above existing grade and the west tower may extend approximately two hundred ten feet (210’) above natural grade.

8.3. Massing. Notwithstanding any contrary provision of the County Code, the Temple shall be permitted to have a size and massing characteristics consistent with the terms and provisions of the Design Guidelines.

8.4. Parking. As set forth in the Final Plan, the Project has the number and character of parking stalls consistent with the County Code or the approved parking study.

8.5. Exterior Lighting and Hours of Operation. All exterior lighting within the Project, including lighting of the Temple itself, will be installed, maintained, and operated pursuant to the



terms, conditions, and restrictions of the Exterior Lighting Ordinance. Owner agrees to comply with the Exterior Lighting Ordinance, even if the Exterior Lighting Ordinance is overturned by a court of competent jurisdiction. There is some level of discretion in how to apply the standards of the Exterior Lighting Ordinance to the Project. Although the County has determined that the lighting plan for the Project included as a component of the Final Plan (“**Lighting Plan**”) is substantially compliant with the Exterior Lighting Ordinance, and the County Code, including sections 16.21.19, 16.21.16, 16.26, 16.33.10, the County Council hereby legislatively approves the Lighting Plan for the Project. The parties note that if the Exterior Lighting Ordinance were to be struck down by a court of competent jurisdiction, then without this Agreement, the Project would be vested under the prior version of the County Code, which allows any amount of light on a site or building without limits as long as it is directed down. The Exterior Lighting Ordinance, and the Lighting Plan, limits the quantity of light, and helps protect the night sky by using newer technologies that help limit light pollution. The Lighting Plan helps preserve the views of the night sky and reduce the health impacts of artificial light more than the lighting restrictions in the version of the County Code which existed prior to the enactment of the Exterior Lighting Ordinance. The Lighting Plan balances the health, safety, welfare interests of adequate lighting required under the IBC, FAA, and recommendations of the Illuminating Engineering Society (“**IES**”) with the welfare interests in reducing light pollution. The Owner shall comply with the Lighting Plan and associated lighting levels in perpetuity, unless a new application for a lighting plan is approved as provided for herein. Any subsequent applications for changes to the exterior lighting of the Project shall be evaluated pursuant to the Exterior Lighting Ordinance, even if the ordinance is overturned by a court of competent jurisdiction. For purposes of the Exterior Lighting Ordinance, Owner states that current normal business hours begin at six o’clock (6:00) A.M. and close at ten o’clock (10:00) P.M. Those shall be deemed the normal business hours and hours of usual operations for lighting purposes year-round, even on days when the Temple may not be open. Notwithstanding the foregoing, nothing in this Agreement or the Exterior Lighting Ordinance will prevent Owner from installing motion-activated sidewalk and parking lot lighting, in accordance with the Lighting Plan, for safety purposes in connection with all after-hours access to the Temple or Property, including for maintenance purposes; provided, however, that such motion-activated safety lighting will not allow Owner to illuminate the exterior of the Temple outside of hours otherwise allowed under the Exterior Lighting Ordinance. Nevertheless, and notwithstanding any provision of the Exterior Lighting Ordinance, nothing in this Agreement will be deemed to restrict Owner’s ability to install the lowest amount of lighting as required by the regulations or rules administered by the Federal Aviation Administration (“**FAA**”) based on the Temple’s proximity to the Heber Valley Airport. Owner shall comply with FAA regulations with respect to exterior lighting for the Temple and other components of the Project. Owner has worked with the FAA to identify “the lowest amount of lighting” as identified in the FAA regulations. Owner has made a reasonable effort to apply for the lowest amount of lighting required for the Project, including options having the lowest Candela allowed. The FAA has indicated to Owner that Owner may comply with the applicable FAA regulations with either nighttime lighting of the upper portion of the western spire of the Temple, or with a solid red light at or near the top of the western spire, which would not require otherwise applicable lighting of the western spire.

8.6. Cooperative Agreement Regarding Center Street. The Parties anticipate that on or after the Effective Date, Owner, the County, and the City (or, alternatively, the Owner and the City), will enter into a Memorandum of Understanding (“**MOU**”) identifying and outlining the respective responsibilities of Owner, the County, and the City with respect to the maintenance of the portion of Center Street fronting the Property. Notwithstanding the foregoing, the MOU will not modify or limit any approvals, entitlements or obligations arising under this Agreement.

8.7. Ridgeline / Viewshed Analysis. The County does not maintain that the Ridgeline / Viewshed provisions of the County Code apply to the Project because the development is not located on or about a ridgeline. The County has never applied the Ridgeline / Viewshed provisions to development on the valley floor. Regardless, the County finds that the provisions of this Agreement adequately address any visual impact created by the Temple and that no additional conditions are required with respect to the Project under Section 16.27.22 of the County Code. The Project meets the requirements of Section 16.27.22, and the Temple is not limited in height, or location on the Property due to Section 16.27.22.

8.8. Flood Zone and Southern Property Boundary. The western portion of the Property is located within “Zone AE” (“**Flood Zone Parcel**”) as shown on the Flood Insurance Rate Map, with an Effective Date of March 15, 2012 (Panel 0119E). The following provisions will apply to the development of the Flood Zone Parcel and the southern boundary line of the Property.

8.8.1. Flood Zone Development. Owner will not install or maintain any impervious surfaces on the Flood Zone (except as necessary to complete the Trail). However, the foregoing will not preclude Owner from using or modifying the Flood Zone Parcel for landscaping, stormwater detention, or other purposes which do not require permanent impervious surfaces (except as necessary to complete the Trail) so long as modifications do not affect the grade of the Flood Zone Parcel, inhibit flows, redirect flows in a manner that will harm others and are in compliance with FEMA regulations. Owner may be permitted to install on the Flood Zone irrigation and stormwater lines, channels, drains, and other equipment consistent with the foregoing purposes. The Flood Zone Parcel may also include portions of the Trail, identified below. Nothing in this Section 8.8 exempts the Project from Section 16.28.08 of the County Code or any applicable FEMA regulations.

8.8.2. Access via Southern Property Boundary. In connection with the prior development of the Triple Crown Subdivision (“**Subdivision**”), a stub of Pimlico Drive (“**Stub Road**”) was installed to the north of the intersection of Pimlico Drive with Preakness Lane. The Stub Road was constructed in anticipation that the Property might be used as residential purposes and, thereby, provide connectivity between the Property and the Subdivision. However, in light of Owner’s determination to use the Property for the Temple and not for a future residential subdivision, the County finds that it is appropriate for the Stub Road to not be extended through the Property. This finding is based on, among other things, the provisions of the following sections. Additionally, because Pimlico Drive will not be connected through to Center Street, and in lieu of the road, sidewalk and culvert improvements that Owner would otherwise install, Owner will be required to improve the dead end of Stub Road—but only to the extent such

improvements are or will be located on the Property or in a public right of way, but will not require a turnaround or hammer head. Rather, Owner will extend existing improvements on or adjacent to the Stub Road such that they will continue for a total of approximately one hundred fifty (150) feet from intersection with Preakness Lane, as shown on the Final Plan. The improvements to the Stub Road may include extension of existing sidewalk, curb, drainage, and non-irrigated landscaping in accordance with the Final Plan.

8.8.3. New Collector. The City is constructing a collector street to the east of the Humbug Canal running north from Center Street (“**New Collector Street**”). The New Collector Street will intersect Center Street at the location of the Project’s west entrance onto Center Street. If the Stub Road were extended through the Project to the Project’s west entrance, Pimlico Drive would become an extension of the New Collector Road, which the County Council finds to be contrary to the health and safety of the residents of the Subdivision. The County Council finds that Mill Road should act as the collector road for the Subdivision and other developments directly south of the Property, and connecting the Stub Road would undermine that intent. The County Council also finds that extending the Stub Road through the Project would create a safety hazard for users of the Project, including pedestrian travel through the parking areas of the Project.

8.8.4. Traffic Impact and City Involvement. Notwithstanding any contrary provision of Sections 16.27.28, 16.27.29, 16.27.30, 16.27.31, 16.08.14 of the County Code, or any other provision of the County Code, Owner will not be required to extend the Stub Road or Pimlico Drive through the Project or otherwise provide vehicular access to the Project from Pimlico Drive or from the south side of Lake Creek. The only significant traffic impact of the Project as designed will be on Center Street, which is in the City adjacent to the Property. Therefore, the City will be responsible for evaluating and approving the connections and improvements to the Center Street right of way. Any requirements of the County Code regarding street layouts, the local street plan, traffic control plans, pedestrian access or traffic studies, as they pertain to Center Street, including, without limitation, Sections 14.02, 16.02.12, 16.27.25, as they pertain to Center Street, are hereby determined to not be applicable to the Project.

8.9. Regional Trail. Owner shall install a perimeter walking trail (“**Trail**”) on portions of the exterior boundaries of the Property as shown on the Final Plan. The Trail shall be designated as a public easement. Notwithstanding the foregoing, the easement for the Trail will be subject to the following restriction: the Trail shall be used only for non-motorized, pedestrian, recreational use and for no other purpose. The hours the Trail may be used by the public will not be limited, except as may be reasonably necessary to address temporary hazards, to perform construction or maintenance, or by a County ordinance regulating trails throughout the County. The Trail shall be connected to, and form part of, a larger regional trail intended for the use and benefit of the community as a whole. Owner shall be required to maintain the Trail on Owner’s property or as agreed to by the County to standards which the County employs for similarly situated county facilities. Nevertheless, nothing in this Agreement shall limit the protections available to Owner under Utah Code § 57-14-101, *et seq.* The Owner will be required to provide complete connections with an improved regional trail system, as shown on the Final Plan. The requirements of this

Agreement will control over any contrary provision of Section 16.08.14, 16.21.18 or 16.38 of the County Code. The County acknowledges that the Trail is intended to be used by the public for a recreational purpose as defined in Utah Code § 57-14-102, and that Owner is entitled to the protections of Utah Code § 57-14-101, *et seq.* Further, the use of the Trail will also be deemed a recreational activity under Utah Code § 78B-4-509, and the County will be entitled to the protections of that section. The easement for Trail will be held by County for the use and benefit of the public, and the parties intend to retain for themselves, with respect to the public use of the Trail, all protections afforded under the Utah Governmental Immunity Act.

8.10. Maintenance Obligations Transfer. Portions of the County Code, including Section 16.27.23, contemplate the maintenance obligations for Open Space, trails, recreational facilities, and certain landscaping being transferred to a homeowners association or similar entity, with the County's approval. Thus, Owner will remain responsible for any of the foregoing which are applicable to the Project. The County therefore finds the Project is not subject to provisions for transferring maintenance obligations, and a written transfer agreement. However off-site improvements, as in the case of the required improvements on Pimlico Drive, may be transferred to a homeowners association.

8.11. Signs. The signs and monumentation for the Project, as included in **Exhibit F**, are approved, notwithstanding any contrary provisions of the County Code, including, without limitation Chapter 16.26 and its subparts. The Project will likely attract persons from outside the County—indeed, from outside the State of Utah—including both adherents and non-adherents of the Church of Jesus Christ of Latter-day Saints, to visit the County. Visitors are likely to come for many reasons, including, to tour the Temple before it commences operations (which tours are open to the general public), to participate directly in ceremonies and ordinances held in the Temple, and to support or celebrate with persons who are participating in such ceremonies and ordinances. The County finds that the signs and monumentation for the Project will promote the safety and welfare of people visiting the Temple because it will facilitate them, finding the Temple, and understand the proper way to access the Temple. In addition to the signs identified on **Exhibit F**, the Temple may also feature the exterior inscriptions “House of the Lord” and “Holiness to the Lord,” which have specific religious significance, in accordance with Owner's practice for other temples. Throughout the Project, Owner may install signs to guide vehicular and pedestrian traffic, including signs permitted by the Manual on Uniform Traffic Control Device.

8.12. Land Use Authority. The County Council will serve as the land use authority for the Applications for the Project. The Applications will be heard by the planning commission, who will hold a public hearing on these items in association with this Agreement, and an associated ordinance, and as required by Utah Code § 17-27a-502. The Wasatch County Council will hold a public hearing on the Applications, this Agreement, and the Temple Project Ordinance in conjunction with this Agreement. The Council may approve the proposed Applications, and the Temple Project Ordinance, or they may modify, deny, or continue the matter. Subsequent land use approvals related to the Project will proceed in accordance Applicable Law and this Agreement.



## **SECTION 9. INSURANCE MATTERS.**

9.1. Insurance Required. Owner shall maintain reasonable policies of commercial general liability insurance with respect to any portion of the Project Improvements which will be dedicated to the public.

9.2. Insurance Certificates. Prior to beginning construction on the Project, Owner shall furnish to the County certificates of general liability insurance indicating that the County has been added as a certificate holder with respect to construction of any public portion of the Project Improvements for the Project. Until such time as any public portion of the Project Improvements are completed and approved by the County, such insurance coverage shall not terminate or be canceled or the coverage reduced until after at least thirty (30) days' written notice is given to the County.

## **SECTION 10. NO AGENCY, JOINT VENTURE, OR PARTNERSHIP.**

10.1. Parties' Understanding. It is specifically understood and agreed to by and between the Parties that: (a) Project is a private development; (b) the County has no interest or responsibilities for, or due to, third-parties concerning any improvements until such time, and only until such time, that the County accepts the same pursuant to the provisions of this Agreement; (c) Owner shall have full power over and exclusive control of the Property and Project herein described, subject only to the limitations and obligations of Owner under this Agreement; and (d) the County and Owner hereby renounce the existence of any form of agency relationship, joint venture or partnership express or implied between the County and Owner and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the County and Owner.

## **SECTION 11. MISCELLANEOUS.**

11.1. Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

11.2. Subjection and Subordination. Each person or entity that holds any beneficial, equitable, or other interest or encumbrances in all or any portion of Project at any time hereby automatically, and without the need for any further documentation or consent, subjects and subordinates such interests and encumbrances to this Agreement and all amendments hereof. Each such person or entity agrees to provide written evidence of that subjection and subordination within fifteen (15) days following a written request for the same from, and in a form reasonably satisfactory to the County.

11.3. Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this

Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties.

11.4. Other Necessary Acts. Each Party shall execute and deliver to the other any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement.

11.5. Construction. This Agreement has been reviewed and revised by legal counsel for both the County and Owner, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

11.6. Covenants Running with the Land. The provisions of this Agreement shall constitute real covenants, contract and property rights, and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns, and transferees.

11.7. Waiver. No action taken by any Party shall be deemed to constitute a waiver of compliance by such Party with respect to any representation, warranty, or condition contained in this Agreement. Any waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver by such Party of any subsequent breach.

11.8. Remedies. Either Party may, in addition to any other rights or remedies, institute an equitable action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto, or to obtain any remedies consistent with the foregoing and the purpose of this Agreement.

11.9. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah. Any dispute regarding the Agreement may be resolved in a court of competent jurisdiction in the State of Utah.

11.10. Covenant of Good Faith and Fair Dealing. Each Party shall use its best efforts and take and employ all necessary actions in good faith consistent with this Agreement and Applicable Law to ensure that the rights secured by the other Party through this Agreement can be enjoyed.

11.11. Requests to Modify Use Restrictions. Owner's successors, heirs, assigns, and transferees shall have the right, without the consent or approval of any other person or entity owning property in any other part of the Project, to request that the County modify any zoning classification, use, density, design, setback, size, height, open space, road design, road dedication, traffic configuration, site plan, or other use restrictions associated with that portion of the Project to which the successor, heir, assign, or transferee holds title. This Section grants no additional rights besides those granted under Applicable Law.

11.12. Representations. Each Party hereby represents and warrants to each other Party that the following statements are true, complete and not misleading as regards the representing warranting Party: (a) such Party is duly organized, validly existing and in good standing under the laws of the state of its organization; (b) such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder; (c) the individual(s) executing this Agreement on behalf of such Party do so with the full authority of the Party that those individual(s) represent; and (d) this Agreement constitutes the legal, valid and binding obligation of such Party enforceable in accordance with its terms, subject to the rules of bankruptcy, moratorium and equitable principles.

11.13. No Third-Party Beneficiaries. This Agreement is between the County and Owner. No other person or entity shall be deemed a third-party beneficiary or have any rights under this Agreement.

## **SECTION 12. NOTICES.**

12.1. Manner of Giving Notice. Any notice or communication required hereunder between the County and Owner must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of: (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to the County:

WASATCH COUNTY MANAGER  
Attn: Dustin Grabau  
25 N Main Street  
Heber City, Utah 84032

PLANNING AND ZONING  
DEPARTMENT

Attn: Doug Smith, Director  
35 South 500 East  
Heber City, Utah 84032

With Copies to:  
WASATCH COUNTY ATTORNEY

If to Owner:

CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS  
Attn: David A. Channer, Assoc. General  
Counsel

50 E. North Temple Street, Room 288W  
Salt Lake City, Utah 84150-0302

With Copies to:  
KIRTON | McCONKIE  
Attn: Loyal C. Hulme and Daniel C.  
Dansie  
50 E. South Temple, Suite 400  
Salt Lake City, Utah 84111

Attn: Scott Sweat and Jon Woodard  
805 West 100 South  
Heber City, UT 84032

### **SECTION 13. CONCLUDING PROVISIONS.**

13.1. Integration Clause. Unless otherwise noted herein, this Agreement is the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of the County and Owner. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

Exhibit A - Legal Description of the Property

Exhibit B – Final Plan

Exhibit C – Conditions of Approval

Exhibit D – Design Guidelines

Exhibit E – Stormwater Infrastructure Maintenance Recommendations

Exhibit F – Approved Signs

Exhibit G – Fire Access

13.2. Recording. Following the Effective Date, the County Clerk shall cause to be recorded, at Owner's expense, an executed copy of this Agreement in the real property records of the office of the Wasatch County Recorder.

[End of Agreement. Balance of page left blank intentionally.]





**OWNER:**  
THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation sole

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF UTAH )  
 )  
 ) :SS  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_, who executed the foregoing instrument as \_\_\_\_\_ of the Church of Jesus Christ of Latter-day Saints.

NOTARY PUBLIC

Residing at: \_\_\_\_\_

## **EXHIBIT A**

### [Legal Description of Property]

A PARCEL OF LAND SITUATE IN THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE & MERIDIAN, WASATCH COUNTY, UTAH. THE BOUNDARIES OF SAID PARCEL ARE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE TOWNSHIP LINE, SAID POINT IS 887.22 FEET N.89°48'22"E. ALONG SAID TOWNSHIP LINE FROM THE NORTHWEST CORNER OF SAID SECTION 4; (BASIS OF BEARING IS S.00°12'01"E. ALONG THE SECTION LINE BETWEEN THE FOUND MONUMENTS REPRESENTING THE NORTHWEST CORNER AND THE WEST QUARTER CORNER OF SAID SECTION 4); AND RUNNING THENCE ALONG SAID TOWNSHIP LINE N.89°48'22"E. 386.80 FEET; THENCE S.00°05'13"E. 19.76 FEET TO A POINT IN AN EXISTING WIRE FENCE LINE; THENCE ALONG SAID EXISTING WIRE FENCE LINE N.89°38'39"E. 886.24 FEET TO THE EXTENSION OF THE EASTERLY BOUNDARY LINE OF PROPERTY DESCRIBED IN QUIT CLAIM DEED IN FAVOR OF LOWER FIELD BOYD L.L.C. RECORDED AS ENTRY NO. 425030 IN BOOK 1160 AT PAGE 389 IN THE OFFICE OF THE WASATCH COUNTY RECORDER, SAID POINT IS ALSO THE EXTENSION OF AN EXISTING CONCRETE FENCE LINE; THENCE ALONG SAID EASTERLY BOUNDARY LINE AND ITS EXTENSION S.00°11'38"E. 206.56 FEET TO A POINT IN THE NORTHERLY BOUNDARY LINE OF BEAUFONTAINE AT SPRING LAKE PHASE 2 P.U.D. (BEAUFONTAINE) RECORDED AS ENTRY NO. 402104 IN BOOK 1107 AT PAGE 730 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG SAID NORTHERLY BOUNDARY LINE N.89°21'13"W. 151.53 FEET TO THE NORTHWEST CORNER OF SAID (BEAUFONTAINE); THENCE ALONG THE WESTERLY BOUNDARY LINE OF SAID (BEAUFONTAINE) S.02°42'20"W. 365.54 FEET TO THE SOUTHWEST CORNER OF SAID (BEAUFONTAINE), SAID POINT IS ALSO IN THE NORTHERLY BOUNDARY LINE OF TRIPLE CROWN SUBDIVISION PLAT A RECORDED AS ENTRY NO. 325405 IN BOOK 948 AT PAGE 1946-2015 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG SAID NORTHERLY BOUNDARY LINE AND ITS EXTENSION THE FOLLOWING THREE (3) COURSES: 1) S.89°36'38"W. 717.30 FEET, 2) S.00°05'13"E. 106.84 FEET AND 3) S.89°54'47"W. 606.00 FEET TO THE SOUTHWEST CORNER OF THE PROPERTY DESCRIBED IN GENERAL WARRANTY DEED IN FAVOR OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS RECORDED AS ENTRY NO. 524740 IN BOOK 1423 AT PAGE 365 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG THE WESTERLY BOUNDARY LINE OF SAID DESCRIBED PROPERTY N.17°24'47"E. 728.97 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 18.17 ACRES IN AREA, MORE OR LESS.

**EXHIBIT B**

[Final Plan]

**[To be Added Prior to Final Approval by County Council.]**



**EXHIBIT C**

[Conditions of Approval]

**[To be Added Prior to Final Approval by County Council.]**

## **EXHIBIT D**

[Design Guidelines]

1. The Temple will have a granite stone exterior which meets the requirements of the Exterior Lighting Ordinance.
2. The Temple will also have decorative metal exterior components.
3. The Temple will have metal framed windows with glazing.
4. Architectural design elements of Temple will be substantially similar to the image shown below.
5. The auxiliary / maintenance building will have a honed CMU exterior.

**[Insert Image of Temple Prior to Final Approval by County Council.]**

## **Exhibit E**

### **[Stormwater Infrastructure Maintenance Recommendations]**

#### **Post Construction Storm Water Management Plan**

##### **Heber Valley Temple: Wasatch County**

These Commercial Best Management Practices (BMPs) are measures and/or practices to be maintained by the property owner or operator to prevent illicit discharges, pollutants, and other contaminants from entering the county storm water system. These measures and practices are to be implemented upon completion of construction activities, to be conducted and maintained in perpetuity:

- \* Inspection and cleaning of Pretreatment boxes and catch basins. Pretreatment and catch basin are to be inspected periodically and are to be cleaned at least once each year. Storm drain manholes, flap gates, and the stream outfall will be inspected each fall and spring. Clear debris as required from the systems.
- \* Parking area cleaning and sweeping - Parking lots are to be swept from time to time as deemed necessary by Owner.
- \* Waste management and disposal- Standard trash and recycling materials will be disposed of in appropriate waste bins as required by applicable law. Regular cleaning of trash bin areas will be completed by the Owner.
- \* Landscape maintenance - Owner is responsible for general landscape maintenance. The landscape maintenance will consist primarily of watering and fertilizing. Logs of fertilization will be maintained by the Owner.
- \* Employee training - Property owner is to provide or require training in storm water quality management and required BMPs. Employee training in storm water quality management and required BMPs shall be integrated with any other existing employee training programs.
- \* Inspection of the isolator row of the underground detention system will be in accordance with the system manufacture recommendations during the first year and subsequent years of operation. Periodic cleaning of the isolator row will be completed as required to remove sediment in the isolator row. Cleaning will be in accordance with the system manufacture recommendations. The operations and maintenance of the rest of the underground system will also be in accordance with the system.
- \* Record of inspection and maintenance- The current year records of inspection and maintenance shall be kept by Owner and made available for review by county and/or state officials upon reasonable request. An inspection of the site may be conducted by the county annually, or at such reasonable lesser intervals as may be deemed necessary and appropriate.

The objective of the plan is to maintain the storm drainage and underground detention facilities as designed.

Heber Valley Temple.

# STORMWATER MAINTENANCE AGREEMENT INSPECTION FORM

Site Name:			Date of Evaluation					
Site Address:								
Facility Contact Information								
	NAMES				PHONE #'S		E-MAIL	
CONTACT:								
CONTACT:								
BUSINESS TYPE:			INSTITUTION <input type="checkbox"/>		COMMERCIAL x		INDUSTRIAL <input type="checkbox"/>	
Items Inspected		Checked		Maintenance		Inspector	Observations and Remarks	
		Yes	No	Req'd	Not Req'd			
1.Review Stormwater site plan								
2. Dumping Evidence								
3. Spill Evidence								
4. General Site								
5. Other Pollution Sources								
6.General Maintenance Status								
Inlets								
Conveyance Systems								
Manholes								
Structural Devices								
Stormwater Storage								
Parking/Pavements								
Waste Collection								
Landscaping								
Flap Gates, SD Outfall								
7.Other Site Items								
Notes:								
Inspector:					Site Contact:			
Signature		Title			Signature		Date	



# Contactor® & Recharger® Stormwater Chambers



## Operation and Maintenance Guidelines for CULTEC Stormwater Management Systems

The Founder of Plastic Chamber Technology

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## Operations and Maintenance Guidelines

Published by  
**CULTEC, Inc.**  
P.O. Box 280  
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Brookfield, Connecticut 06804 USA  
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Visit [www.cultec.com/downloads.html](http://www.cultec.com/downloads.html) for Product Downloads and CAD details.

Doc ID: CULG008 05-17  
May 2017

*These instructions are for single-layer traffic applications only. For multi-layer applications, contact CULTEC.  
All illustrations and photos shown herein are examples of typical situations. Be sure to follow the engineer's drawings.  
Actual designs may vary.*





*This manual contains guidelines recommended by CULTEC, Inc. and may be used in conjunction with, but not to supersede, local regulations or regulatory authorities. OSHA Guidelines must be followed when inspecting or cleaning any structure.*

## Introduction

The CULTEC Subsurface Stormwater Management System is a high-density polyethylene (HDPE) chamber system arranged in parallel rows surrounded by washed stone. The CULTEC chambers create arch-shaped voids within the washed stone to provide stormwater detention, retention, infiltration, and reclamation. Filter fabric is placed between the native soil and stone interface to prevent the intrusion of fines into the system. In order to minimize the amount of sediment which may enter the CULTEC system, a sediment collection device (stormwater pretreatment device) is recommended upstream from the CULTEC chamber system. Examples of pretreatment devices include, but are not limited to, an appropriately sized catch basin with sump, pretreatment catchment device, oil grit separator, or baffled distribution box. Manufactured pretreatment devices may also be used in accordance with CULTEC chambers. Installation, operation, and maintenance of these devices shall be in accordance with manufacturer's recommendations. Almost all of the sediment entering the stormwater management system will be collected within the pretreatment device.

Best Management Practices allow for the maintenance of the preliminary collection systems prior to feeding the CULTEC chambers. The pretreatment structures shall be inspected for any debris that will restrict inlet flow rates. Outfall structures, if any, such as outlet control must also be inspected for any obstructions that would restrict outlet flow rates. OSHA Guidelines must be followed when inspecting or cleaning any structure.

## Operation and Maintenance Requirements

### I. Operation

CULTEC stormwater management systems shall be operated to receive only stormwater run-off in accordance with applicable local regulations. CULTEC subsurface stormwater management chambers operate at peak performance when installed in series with pretreatment. Pretreatment of suspended solids is superior to treatment of solids once they have been introduced into the system. The use of pretreatment is adequate as long as the structure is maintained and the site remains stable with finished impervious surfaces such as parking lots, walkways, and pervious areas are properly maintained. If there is to be an unstable condition, such as improvements to buildings or parking areas, all proper silt control measures shall be implemented according to local regulations.

### II. Inspection and Maintenance Options

- A. The CULTEC system may be equipped with an inspection port located on the inlet row. The inspection port is a circular cast box placed in a rectangular concrete collar. When the lid is removed, a 6-inch (150 mm) pipe with a screw-in plug will be exposed. Remove the plug. This will provide access to the CULTEC Chamber row below. From the surface, through this access, the sediment may be measured at this location. A stadia rod may be used to measure the depth of sediment if any in this row. If the depth of sediment is in excess of 3 inches (76 mm), then this row should be cleaned with high pressure water through a culvert cleaning nozzle. This would be carried out through an upstream manhole or through the CULTEC StormFilter Unit (or other pretreatment device). CCTV inspection of this row can be deployed through this access port to determine if any sediment has accumulated in the inlet row.
- B. If the CULTEC bed is not equipped with an inspection port, then access to the inlet row will be through an upstream manhole or the CULTEC StormFilter.
  1. **Manhole Access**  
This inspection should only be carried out by persons trained in confined space entry and sewer inspection services. After the manhole cover has been removed a gas detector must be lowered into the manhole to ensure that there are not high concentrations of toxic gases present. The inspector should be lowered into the manhole with the proper safety equipment as per OSHA requirements. The inspector may be able to observe sediment from this location. If this is not possible, the inspector will need to deploy a CCTV robot to permit viewing of the sediment.

For more information, contact CULTEC at (203) 775-4416 or visit [www.cultec.com](http://www.cultec.com).

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## Operations and Maintenance Guidelines

### 2. StormFilter Access

Remove the manhole cover to allow access to the unit. Typically a 30-inch (750 mm) pipe is used as a riser from the StormFilter to the surface. As in the case with manhole access, this access point requires a technician trained in confined space entry with proper gas detection equipment. This individual must be equipped with the proper safety equipment for entry into the StormFilter. The technician will be lowered onto the StormFilter unit. The hatch on the unit must be removed. Inside the unit are two filters which may be removed according to StormFilter maintenance guidelines. Once these filters are removed the inspector can enter the StormFilter unit to launch the CCTV camera robot.

- C. The inlet row of the CULTEC system is placed on a polyethylene liner to prevent scouring of the washed stone beneath this row. This also facilitates the flushing of this row with high pressure water through a culvert cleaning nozzle. The nozzle is deployed through a manhole or the StormFilter and extended to the end of the row. The water is turned on and the inlet row is back-flushed into the manhole or StormFilter. This water is to be removed from the manhole or StormFilter using a vacuum truck.

### III. Maintenance Guidelines

The following guidelines shall be adhered to for the operation and maintenance of the CULTEC stormwater management system:

- A. The owner shall keep a maintenance log which shall include details of any events which would have an effect on the system's operational capacity.
- B. The operation and maintenance procedure shall be reviewed periodically and changed to meet site conditions.
- C. Maintenance of the stormwater management system shall be performed by qualified workers and shall follow applicable occupational health and safety requirements.
- D. Debris removed from the stormwater management system shall be disposed of in accordance with applicable laws and regulations.

### IV. Suggested Maintenance Schedules

#### A. Minor Maintenance

The following suggested schedule shall be followed for routine maintenance during the regular operation of the stormwater system:

Frequency	Action
Monthly in first year	Check inlets and outlets for clogging and remove any debris, as required.
Spring and Fall	Check inlets and outlets for clogging and remove any debris, as required.
One year after commissioning and every third year following	Check inlets and outlets for clogging and remove any debris, as required.

#### B. Major Maintenance

The following suggested maintenance schedule shall be followed to maintain the performance of the CULTEC stormwater management chambers. Additional work may be necessary due to insufficient performance and other issues that might be found during the inspection of the stormwater management chambers. (See table on next page)





	Frequency	Action
Inlets and Outlets	Every 3 years	<ul style="list-style-type: none"> <li>Obtain documentation that the inlets, outlets and vents have been cleaned and will function as intended.</li> </ul>
	Spring and Fall	<ul style="list-style-type: none"> <li>Check inlet and outlets for clogging and remove any debris as required.</li> </ul>
CULTEC Stormwater Chambers	2 years after commissioning	<ul style="list-style-type: none"> <li>Inspect the interior of the stormwater management chambers through inspection port for deficiencies using CCTV or comparable technique.</li> <li>Obtain documentation that the stormwater management chambers and feed connectors will function as anticipated.</li> </ul>
	9 years after commissioning every 9 years following	<ul style="list-style-type: none"> <li>Clean stormwater management chambers and feed connectors of any debris.</li> <li>Inspect the interior of the stormwater management structures for deficiencies using CCTV or comparable technique.</li> <li>Obtain documentation that the stormwater management chambers and feed connectors have been cleaned and will function as intended.</li> </ul>
	45 years after commissioning	<ul style="list-style-type: none"> <li>Clean stormwater management chambers and feed connectors of any debris.</li> <li>Determine the remaining life expectancy of the stormwater management chambers and recommended schedule and actions to rehabilitate the stormwater management chambers as required.</li> <li>Inspect the interior of the stormwater management chambers for deficiencies using CCTV or comparable technique.</li> <li>Replace or restore the stormwater management chambers in accordance with the schedule determined at the 45-year inspection.</li> <li>Attain the appropriate approvals as required.</li> <li>Establish a new operation and maintenance schedule.</li> </ul>
Surrounding Site	Monthly in 1 <sup>st</sup> year	<ul style="list-style-type: none"> <li>Check for depressions in areas over and surrounding the stormwater management system.</li> </ul>
	Spring and Fall	<ul style="list-style-type: none"> <li>Check for depressions in areas over and surrounding the stormwater management system.</li> </ul>
	Yearly	<ul style="list-style-type: none"> <li>Confirm that no unauthorized modifications have been performed to the site.</li> </ul>

For additional information concerning the maintenance of CULTEC Subsurface Stormwater Management Chambers, please contact CULTEC, Inc. at 1-800-428-5832.

For more information, contact CULTEC at (203) 775-4416 or visit [www.cultec.com](http://www.cultec.com).

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## **WQMP Operation & Maintenance (O&M) Plan**

Project Name: \_\_\_\_\_

### **Prepared for:**

Project Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State Zip: \_\_\_\_\_

### **Prepared on:**

Date: \_\_\_\_\_



This O&M Plan describes the designated responsible party for implementation of this WQMP, including: operation and maintenance of all the structural BMP(s), conducting the training/educational program and duties, and any other necessary activities. The O&M Plan includes detailed inspection and maintenance requirements for all structural BMPs, including copies of any maintenance contract agreements, manufacturer's maintenance requirements, permits, etc.

#### 8.1.1 Project Information

Project name	
Address	
City, State Zip	
Site size	
List of structural BMPs, number of each	
Other notes	

#### 8.1.2 Responsible Party

The responsible party for implementation of this WQMP is:

Name of Person or HOA Property Manager	
Address	
City, State Zip	
Phone number	
24-Hour Emergency Contact number	
Email	

#### 8.1.3 Record Keeping

Parties responsible for the O&M plan shall retain records for at least 5 years.

All training and educational activities and BMP operation and maintenance shall be documented to verify compliance with this O&M Plan. A sample Training Log and Inspection and Maintenance Log are included in this document.

#### 8.1.4 Electronic Data Submittal

This document along with the Site Plan and Attachments shall be provided in PDF format. AutoCAD files and/or GIS coordinates of BMPs shall also be submitted to the City.

For more information, contact CULTEC at (203) 775-4416 or visit [www.cultec.com](http://www.cultec.com).

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### Appendix \_\_\_\_

#### BMP SITE PLAN

Site plan is preferred on minimum 11" by 17" colored sheets, as long as legible.





## BMP OPERATION & MAINTENANCE LOG

Project Name: \_\_\_\_\_

Today's Date: \_\_\_\_\_

Name of Person Performing Activity (Printed): \_\_\_\_\_

Signature: \_\_\_\_\_

BMP Name (As Shown in O&M Plan)	Brief Description of Implementation, Maintenance, and Inspection Activity Performed

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## Operations and Maintenance Guidelines

### Minor Maintenance

Frequency		Action
<b>Monthly in first year</b>		Check inlets and outlets for clogging and remove any debris, as required.
		Notes
<input type="checkbox"/> Month 1	Date:	
<input type="checkbox"/> Month 2	Date:	
<input type="checkbox"/> Month 3	Date:	
<input type="checkbox"/> Month 4	Date:	
<input type="checkbox"/> Month 5	Date:	
<input type="checkbox"/> Month 6	Date:	
<input type="checkbox"/> Month 7	Date:	
<input type="checkbox"/> Month 8	Date:	
<input type="checkbox"/> Month 9	Date:	
<input type="checkbox"/> Month 10	Date:	
<input type="checkbox"/> Month 11	Date:	
<input type="checkbox"/> Month 12	Date:	
<b>Spring and Fall</b>		Check inlets and outlets for clogging and remove any debris, as required.
		Notes
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<b>One year after commissioning and every third year following</b>		Check inlets and outlets for clogging and remove any debris, as required.
		Notes
<input type="checkbox"/> Year 1	Date:	
<input type="checkbox"/> Year 4	Date:	
<input type="checkbox"/> Year 7	Date:	
<input type="checkbox"/> Year 10	Date:	
<input type="checkbox"/> Year 13	Date:	
<input type="checkbox"/> Year 16	Date:	
<input type="checkbox"/> Year 19	Date:	
<input type="checkbox"/> Year 22	Date:	

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## Major Maintenance

	Frequency		Action
Inlets and Outlets	<b>Every 3 years</b>		Obtain documentation that the inlets, outlets and vents have been cleaned and will function as intended.
			Notes
	<input type="checkbox"/> Year 1	Date:	
	<input type="checkbox"/> Year 4	Date:	
	<input type="checkbox"/> Year 7	Date:	
	<input type="checkbox"/> Year 10	Date:	
	<input type="checkbox"/> Year 13	Date:	
	<input type="checkbox"/> Year 16	Date:	
	<input type="checkbox"/> Year 19	Date:	
	<input type="checkbox"/> Year 22	Date:	
	<b>Spring and Fall</b>		Check inlet and outlets for clogging and remove any debris, as required.
			Notes
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
CULTEC Stormwater Chambers	<b>2 years after commissioning</b>		<input type="checkbox"/> Inspect the interior of the stormwater management chambers through inspection port for deficiencies using CCTV or comparable technique. <input type="checkbox"/> Obtain documentation that the stormwater management chambers and feed connectors will function as anticipated.
			Notes
	<input type="checkbox"/> Year 2	Date:	

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## Operations and Maintenance Guidelines

### Major Maintenance

Frequency		Action
CULTEC Stormwater Chambers	<b>9 years after commissioning every 9 years following</b>	<ul style="list-style-type: none"><li>□ Clean stormwater management chambers and feed connectors of any debris.</li><li>□ Inspect the interior of the stormwater management structures for deficiencies using CCTV or comparable technique.</li><li>□ Obtain documentation that the stormwater management chambers and feed connectors have been cleaned and will function as intended.</li></ul>
	Notes	
	□ Year 9	Date:
	□ Year 18	Date:
	□ Year 27	Date:
	□ Year 36	Date:
	<b>45 years after commissioning</b>	<ul style="list-style-type: none"><li>□ Clean stormwater management chambers and feed connectors of any debris.</li><li>□ Determine the remaining life expectancy of the stormwater management chambers and recommended schedule and actions to rehabilitate the stormwater management chambers as required.</li><li>□ Inspect the interior of the stormwater management chambers for deficiencies using CCTV or comparable technique.</li><li>□ Replace or restore the stormwater management chambers in accordance with the schedule determined at the 45-year inspection.</li><li>□ Attain the appropriate approvals as required.</li><li>□ Establish a new operation and maintenance schedule.</li></ul>
	Notes	
	□ Year 45	Date:

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## Major Maintenance

Frequency		Action	
Surrounding Site	<b>Monthly in 1<sup>st</sup> year</b>		
	<input type="checkbox"/> Check for depressions in areas over and surrounding the stormwater management system.		
	Notes		
	<input type="checkbox"/> Month 1	Date:	
	<input type="checkbox"/> Month 2	Date:	
	<input type="checkbox"/> Month 3	Date:	
	<input type="checkbox"/> Month 4	Date:	
	<input type="checkbox"/> Month 5	Date:	
	<input type="checkbox"/> Month 6	Date:	
	<input type="checkbox"/> Month 7	Date:	
	<input type="checkbox"/> Month 8	Date:	
	<input type="checkbox"/> Month 9	Date:	
	<input type="checkbox"/> Month 10	Date:	
	<input type="checkbox"/> Month 11	Date:	
	<input type="checkbox"/> Month 12	Date:	
	<b>Spring and Fall</b>		
	<input type="checkbox"/> Check for depressions in areas over and surrounding the stormwater management system.		
	Notes		
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
<b>Yearly</b>			
<input type="checkbox"/> Confirm that no unauthorized modifications have been performed to the site.			
Notes			
<input type="checkbox"/> Year 1	Date:		
<input type="checkbox"/> Year 2	Date:		
<input type="checkbox"/> Year 3	Date:		
<input type="checkbox"/> Year 4	Date:		
<input type="checkbox"/> Year 5	Date:		
<input type="checkbox"/> Year 6	Date:		
<input type="checkbox"/> Year 7	Date:		

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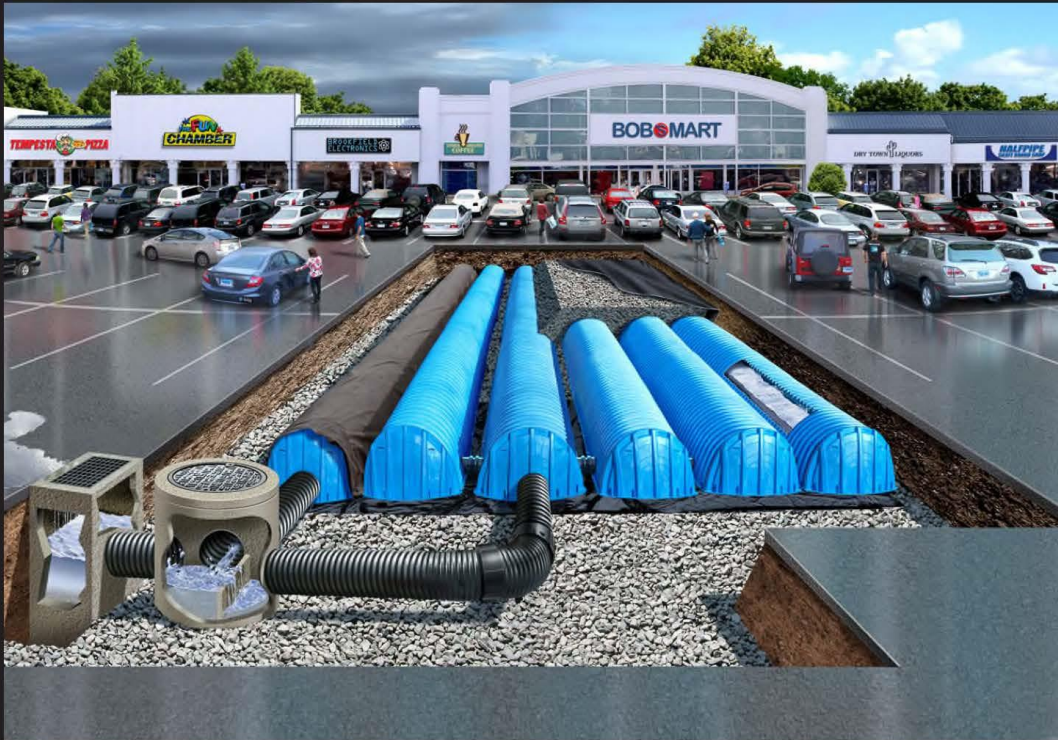
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CULG008 05-17

# CULTEC SEPARATOR™ ROW

## WATER QUALITY SYSTEM



## OPERATION & MAINTENANCE GUIDE

### FOR CULTEC STORMWATER MANAGEMENT SYSTEMS



STORMWATER MANAGEMENT SOLUTIONS



CULTEC





## CULTEC SEPARATOR™ ROW OPERATION & MAINTENANCE GUIDE

### Published by

**CULTEC, Inc.**

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[www.cultec.com](http://www.cultec.com)

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Visit [www.cultec.com/downloads.html](http://www.cultec.com/downloads.html) for Product Downloads and CAD details.

Doc ID: CLT043 02-22

Feb 2022



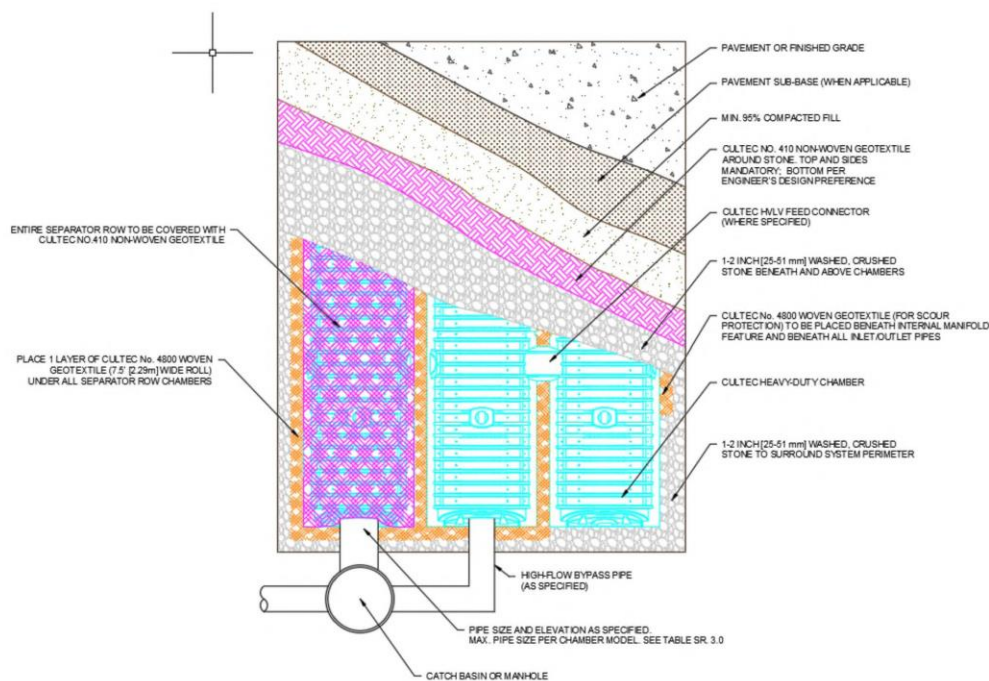
## Introduction

CULTEC's Separator™ Row is an inexpensive means of removing Total Suspended Solids from the CULTEC chamber system, as well as providing easier access for inspection and maintenance. The Separator Row is designed to capture the First Flush of a rain event and is typically included as part of the "Treatment Train" for water quality.

The CULTEC Separator Row is a row of CULTEC Contactor or Recharger Chambers that are surrounded on all sides by filter fabric. One layer of CULTEC No. 4800™ Woven Geotextile are placed between the clean foundation stone and the chamber feet. The chambers are then completely wrapped with CULTEC No. 410™ non-woven geotextile. This configuration is designed to trap any sediment and/or debris that may pass through the upstream water-quality structures and into the chamber system.

A manhole is typically located adjacent to the separator row for ease of inspection and maintenance. This manhole is placed upstream of the system and can include a high-flow bypass pipe to pass peak-flows onto adjacent rows of chambers. The upstream manhole is designed with a sump to trap heavier sediment and allow for proper cleaning of the Separator Row. A JetVac process with a high pressure water nozzle is introduced down the Separator Row via the access manhole to clean all sediment and debris from the Separator Row. Captured pollutants are flushed into the sumped access manhole for vacuuming, and the process is repeated until the Separator Row is completely free of sediment and debris.

The Separator Row performance has been tested and verified to the protocols and procedures as defined by Environmental Technology Verification (ETV) Canada to achieve 80% TSS removal.



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# CULTEC SEPARATOR™ ROW OPERATION & MAINTENANCE GUIDE

## Design

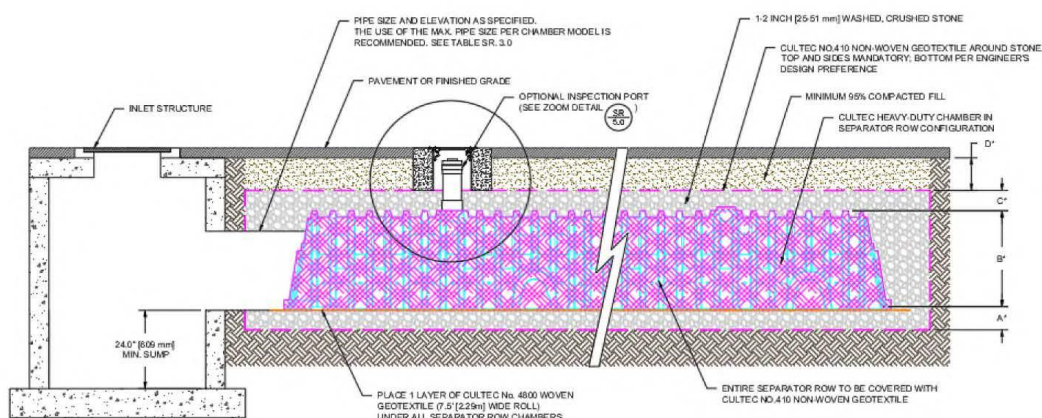
There is no single design to achieve a high level of water quality. The CULTEC Separator Row should be designed as part of an overall best management practices water quality system. Pre-treatment devices such as sump catch basins, inlet baffles and proprietary oil-grit separators and filter systems can all be incorporated upstream of the CULTEC Separator Row. Sumped access/diversion manholes should be installed directly upstream of the Separator Row.

The following is a list of recommended design practices to ensure proper maintenance for the life of the system:

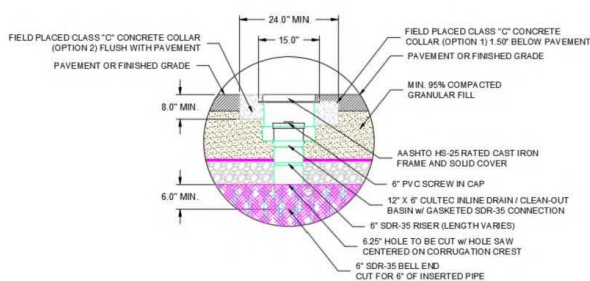
- Install summed access/diversion manholes, including a minimum 24" (600 mm) sump, directly upstream of the Separator Row.

- Include a high-flow bypass pipe to divert peak flows that exceed the capacity of the Separator Row to adjacent rows.
- Connect the access manhole to the Separator Row with the largest diameter pipe allowable based on the CULTEC chamber model used.
- Maintain a minimum distance between the access manhole and the Separator Row to promote efficient maintenance.
- Include at least one inspection port per Separator Row for periodic inspection.

Note: Typical JetVac maintenance reels have a maximum of 400 feet (121.9 m) of available hose. Consider this when designing the length of the CULTEC Separator Rows.



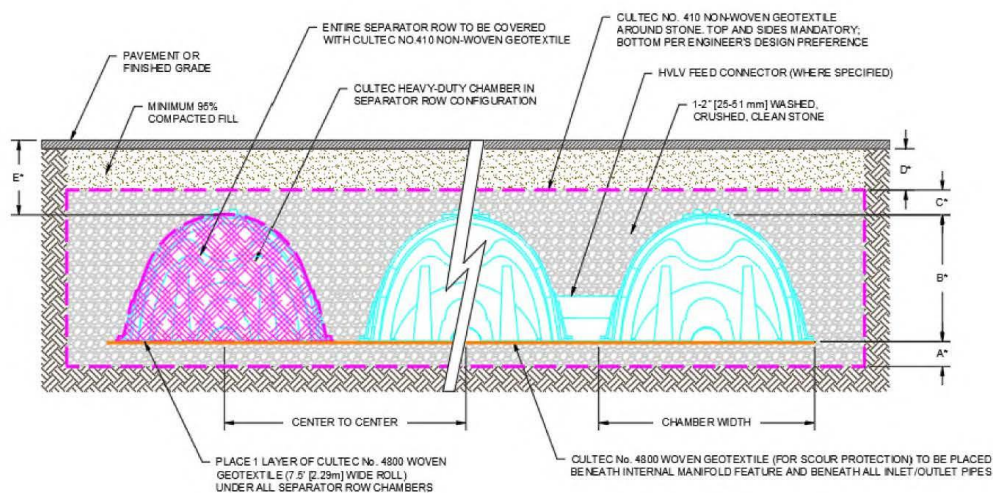
**\*SEE SR 3.0 - CROSS SECTION TABLE REFERENCE**



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For more information, contact CULTEC at (203) 775-4416 or visit [www.cultec.com](http://www.cultec.com).

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\*SEE SR 3.0 - CROSS SECTION TABLE REFERENCE

**Table SR 3.0**

Description	Contactor 100HD	Recharger 150XLHD	Recharger 280HD	Recharger 330XLHD	Recharger 360HD	Recharger 902HD
A Min. depth of stone base	6" 152 mm	6" 152 mm	6" 152 mm	6" 152 mm	6" 152 mm	9" 229 mm
B Chamber height	12.5" 318 mm	18.5" 470 mm	26.5" 673 mm	30.5" 775 mm	36" 914 mm	48" 1219 mm
C Min. depth of stone required above units for traffic applications	6" 152 mm	6" 152 mm	6" 152 mm	6" 152 mm	6" 152 mm	12" 305 mm
D Min. depth required of 95% compacted fill for paved traffic application	8" 203 mm	8" 203 mm	8" 203 mm	10" 254 mm	12" 305 mm	12" 305 mm
E Max. depth of cover allowed above crown of chamber	12' 3.65 m	12' 3.65 m	12' 3.65 m	12' 3.65 m	12' 3.65 m	8.5' 2.59 m
Max. allowable pipe size into chamber end wall/end cap	10" 250 mm	12" 300 mm	18" 450 mm	24" 600 mm	24" 600 mm	24" 600 mm

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## CULTEC SEPARATOR™ ROW OPERATION & MAINTENANCE GUIDE

### Inspection and Maintenance

CULTEC recommends inspection of the Separator Row to be performed every six months for the first year of service. Future inspection frequency can be adjusted based upon previous inspection observations. However annual inspections are recommended. Inspection of the Separator Row can be achieved via an inspection port riser installed during construction. This inspection port riser will connect the top of the Separator Row chambers to finished grade with a removable lid. Alternatively the Separator Row may be inspected via the manhole(s) located at the end(s) of the Separator Row. However this method of inspection requires confined space entry. If entry into the manhole is required, all local and OSHA rules for confined space entries must be strictly followed.

To inspect:

- Remove the inspection port lid from the floor box frame.



High pressure water nozzle

- Remove the riser pipe cap.
- With a flashlight and stadia rod, measure the depth of sediment.
- Record results in a maintenance log.
- When depth of sediment exceeds 3" (76 mm), use the JetVac procedure described below.

The JetVac process utilizes a high pressure water nozzle controlled from the surface. The high pressure nozzle is introduced down the Separator Row via the access manhole(s). The high pressure water cleans all sediment and debris from the Separator Row as the nozzle is retrieved. Captured pollutants are flushed into the sumped access manhole for vacuuming. This process is repeated until the Separator Row is completely free of sediment and debris. A small diameter culvert cleaning nozzle is recommended for this procedure.



Cleaning Separator Row and pipes with high pressure water nozzle



SEPARATOR ROW: Separator Row prior to cleaning



ADJACENT ROW: When the Separator Row is working properly, the adjacent rows will not show signs of sediment.

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RETENTION • DETENTION • INFILTRATION • WATER QUALITY

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### Inspection and Maintenance Record

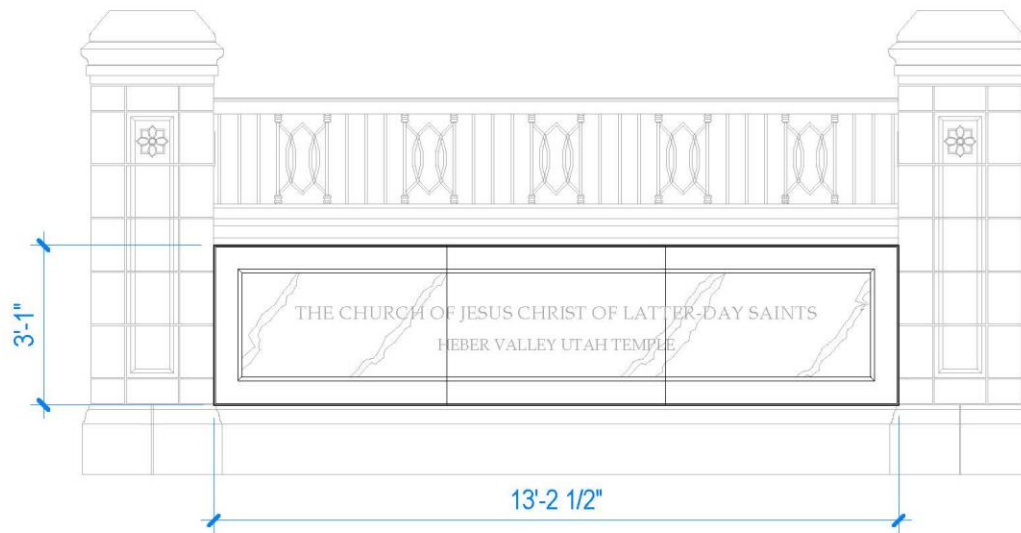
Date	Mode of Access	Frequency	Depth of Sediment	Actions	Expenses	Inspector	Notes
Ex.	Inspection Port	Semi-annually	2"	Measure sediment depth with stadia rod. Visually inspect	\$100	DPG	Depth of Sediment was measured via Northeast Inspection Port Adjacent to MH-1. Sediment depth was found to be 2". No further action required at this time.
Ex.	Access Manhole	Annually					

For more information, contact CULTEC at (203) 775-4416 or visit [www.cultec.com](http://www.cultec.com).

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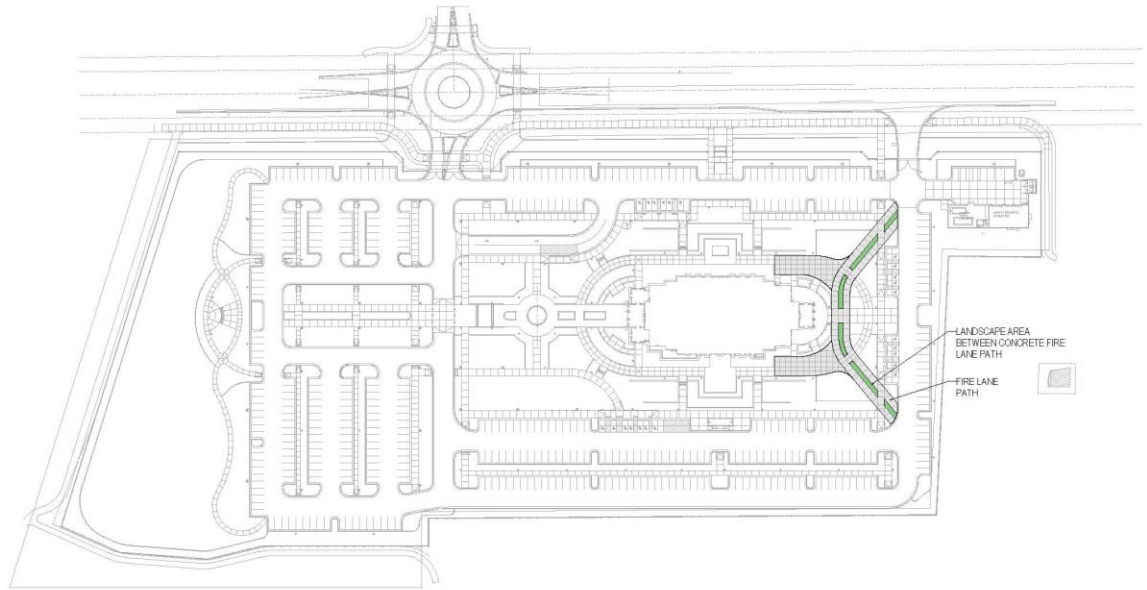
**Exhibit F**

[Approved Signs]



## **Exhibit G**

[Fire Access]





# Wasatch County Planning Commission October 25, 2023



## Item(s) #1, #2, and #3

### Core Architecture and the Church of Jesus Christ of Latter Day Saints

- 
- Ordinance 23-16 - Legislative Development Agreement
  - Final Subdivision Plat Approval
  - Site Plan Approval



# WASATCH COUNTY

## Planning Commission Staff Report Legislative Development Agreement, Final Plat and Final Site Plan approval

**ITEM(s) 1, 2 and 3** Jason Sandburg, representing Core Architecture and the Church of Jesus Christ of Latter Day Saints, requests consideration by the County legislative body for approval of ordinance 23-16 enacting, approving, adopting or authorizing the execution of a legislative development agreement in order to address aspects of the temple project. An associated MOU with the County, the Church and Heber City regarding improvements on Center Street will also be included as an exhibit to the legislative development agreement. (Jon Woodard and Doug Smith)

Jason Sandburg, representing Core Architecture and the Church of Jesus Christ of Latter Day Saints, requests Final Subdivision plat approval for the Heber Valley Utah Temple. The subdivision contains one lot and dedicates property for improvements on Center Street. The parcel is ~18.17 acres located at ~1400 East Center Street in Township 4 South, Range 5 East in the Residential Agriculture 1 (RA-1) zone. (DEV-7924; Doug Smith)

Jason Sandburg, representing Core Architecture and the Church of Jesus Christ of Latter Day Saints, requests Site Plan approval for the Heber Valley Utah Temple, a proposed religious temple consisting of a ~88,000 sf temple, ~ 2,000 sf grounds building, parking, landscaping and associated improvements on ~18 acres located at ~1400 East Center Street in Township 4 South, Range 5 East in the Residential Agriculture 1 (RA-1) zone. (DEV-7924; Doug Smith)

### PROJECT SUMMARY

**Applicant:** Core Architects, representing the property owner  
**Hearing Date:** 25 October 2023  
**Property Owner:** The Church of Jesus Christ of Latter Day Saints

**Acreage:** ~18.17 Acres  
**Existing Zone:** RA-1 (Residential Ag. 1- acre lot)  
**Existing Land Use:** Vacant  
**Proposed Land Use:** 88,000 sf. 210' tall Temple and ancillary uses

### BACKGROUND

The request is for approval of a temple for the Church of Jesus Christ of Latter Day Saints ("Church")<sup>1</sup> on a ~18.17 acre parcel of property at approximately 1400 East Center Street in the RA-1 zone. The temple is ~88,000 square feet and ~210' tall at the tallest point of the west steeple from natural grade. The site is located in the RA-1 zone which allows 1-acre single family lots if the project can comply with applicable code requirements.

<sup>1</sup> Style Guide — The Name of the Church - <https://newsroom.churchofjesuschrist.org/style-guide#:~:text=In%20the%20first%20reference%2C%20the,is%20also%20accurate%20and%20encouraged.>

Most are aware of the temple and the proposed location due to the lighting code recently adopted by the County that was initially applied for by the LDS church.

This is a unique project not only because of the size and scope of the primary building in the project, but also because the property is in Wasatch County not Heber City although the roads that provide immediate access to the site are in Heber City and the residents to the north and west of the site are in Heber City. To the east and south of the site is unincorporated County.

This staff report covers three separate application items that will be organized in the following sections in the following order:

1. Legislative development agreement, including exhibits and enacting ordinance; and
2. One lot final subdivision; and
3. Final site plan

Due to their interrelated nature the aforementioned items will be covered in this one staff report but will need to be reviewed concurrently with individual motions. If the legislative development agreement is not approved or not approved as written a different approval process may be needed. Many of the issues will be discussed under the portion of the staff report entitled “Site Plan”. This section will address issues like; lighting, setbacks, building height, parking, landscaping, trails etc.

The final site plan and subdivision applications were deemed complete on May 19, 2023. The applications were then sent through an internal Development Review Committee process that includes review by about 17 internal and external reviewers. Most of the ~17 review entities are looking at technical issues with the temple. Until the issues brought up by the various departments are resolved the item is not placed on a planning commission agenda. This proposal went through five review cycles each time with additional detail or clarification requested by various departments at each cycle.

The site is zoned RA-1. The temple, which is classified the same as a church<sup>2</sup>, is allowed by code in the RA-1 zone as a conditional use. However, it is typically not what would be anticipated in the RA-1 zone or frankly in any zone in the County due to the fact that temples are so unusual as to make this the first one applied for in the County. Typical uses in the RA-1 zone are single family housing on 1-acre lots or larger, or the continuation of historic agricultural uses. The temple will have private and public sidewalks, large landscaped gardens and lawns and more parking than a typical single family residential development would require. In a residential project in the RA-1 zone, heights are limited to 35’ from natural grade<sup>3</sup>, but greater heights are allowed as a conditional use for churches, church towers and similar structures not used for human occupancy which are not counted towards height (WCC 16.21.11). The proposed temple in contrast is ~88,000 square feet and ~210’ tall at the tallest point of the west steeple from natural grade.

The newly adopted lighting code allows for lighting on the temple and grounds in compliance with the code. The code was approved on April 19, 2023. The complete applications for site plan and subdivision approval for the LDS temple was submitted after the enactment of the lighting code. The application is considered vested under the approved lighting code, pursuant to Utah Code 17-27a-508.

The Planning Commission, staff, and the Council should be aware that Ray Quinney & Nebeker has filed a Petition for

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<sup>2</sup> WCC 16.08.03 includes Use Number 6910 as a Conditional Use. WCC 16.36.05 includes Use Number 6911 in 6910. 6911 includes: “Churches, synagogues, temples and missions.” Additionally, WCC 16.02.04 defines Churches and Temples the same.

<sup>3</sup> WCC 16.08.09.

Review regarding the recently enacted lighting Ordinance 23-01 in Case #230500048. Ray Quinney & Nebeker is representing the named petitioners Laurie Brown, Richard Getz, Julie Levinson, Randy Schroder, and the Save Wasatch Back Dark Skies, and a citizen group, in that case. The County Attorney's office gives this warning because of the possibility that Ray Quinney & Nebeker could try to use discussion of these applications for the various approvals against the County in the pending lawsuit, or in another lawsuit.

Since the proposal is such an unusual use, the applicant, through the application, has proposed that a legislative development agreement be used to address some of the issues related to this approval. This idea, and some specific considerations on the project that could be addressed through the development agreement, were presented to the Council for feedback purposes on June 21, 2023 in a public meeting. No specific concerns that showed it would be unproductive to proceed in this direction were raised by the Council, though it was clear that the Project was not being approved, even in general concept, at that time. The applicant has the right to apply for the Temple without a legislative development agreement, and the proposal would be considered as a conditional use. The proposed legislative development agreement, if approved, allows the proposal as a permitted use. The legislative development agreement, allowed by state code UCA 17-27a-528(2)(a)(iii), will also be used to address other unique elements of the temple, and can be used by the legislative body to make requirements unique to this project. If the council were to deny the request, and the applicant re-applied without a legislative development agreement, the council would lose the discretion to require aspects of the project to be addressed in unique ways, because the County would simply have to process the application under the vested code. Due to the unique aspects of this project, this could lead to outcomes that are not as desirable. For example, if a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application. UCA 17-27a-308(2).

Also, working with the applicant through a legislative development agreement creates a substantially diminished risk that the applicant could bring claims under RLUIPA (Religious Land Use and Institutionalized Persons Act of 2000). RLUIPA is a federal law, which among other things, prohibits the County from imposing a land use regulation in a manner that substantially burdens a religious institution, unless the County proves the regulation is advancing a compelling County interest in the least restrictive means.<sup>4</sup> By having the County legislative body and the applicant agree to standards for this project through the development agreement that both are satisfied comply with RLUIPA, and also advance the health, safety, and welfare interests of the public in compliance with Utah Code, then we can avoid disagreements that could arise over whether and how RLUIPA could apply to this project.

Due to the large amount of public interest in this issue, the County has sought to facilitate public comment by moving the public hearings to the Senior Center with overflow seating in the library, which can accommodate many more people than the regularly used Council Chambers. Staff has posted this staff report and ancillary material on the County website about a week before the first public hearing. This was done in order to give the planning commission and public time to carefully consider the staff's comments to the Planning Commission before the first public hearing on these proposals. Staff published the notice of this public hearing over 14 days before the hearing in the Wasatch Wave, and in several other ways including posting a sign on the property to try and ensure the public was aware of the public hearings. This is in addition to following the minimum requirements under the Wasatch County Code and Utah Code for noticing a public hearing.

Many of the concerns raised by the public regarding this proposal are the following:

1. Are the buildings height and size too big?
2. Is the lighting of the site and buildings too much?
3. Traffic

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<sup>4</sup> See 42 U.S.C. §§ 2000cc, et seq., and the resulting case law, for a more complete and exact explanation of RLUIPA.



#### 4. Water (dewatering of the site)

The staff report attempts to address these issues and more and provide the information which may or may not satisfy some or all of the appointed and elected officials concerns and the public and their concerns.

The purpose and intent of this staff report is not to provide justification for the proposal but to provide the necessary information in as concise and clear manner as possible so that the decision makers (planning commission and county council) can make an informed decision based on an understanding of the proposed applications. The review and approval or denial of all the applications is a legislative decision which is a land use decision made by the County Council after a recommendation by the Planning Commission.

### **STAFF ANALYSIS**

As mentioned there are three applications that are part of this proposal, legislative development agreement approval with its associated enacting ordinance and exhibits; small scale subdivision plat approval and site plan approval. Staff will address all three items separately divided by sections although all three application items are interrelated and have overlap.

#### ***SECTION 1 -LEGISLATIVE DEVELOPMENT AGREEMENT-***

There is no doubt that a proposal of this scale is unique. A temple is listed (6911) as a conditional use in the County land use code. Due to the uniqueness of the proposal, the County Legislative body has been asked to enter into a legislative development agreement as allowed by Utah Code 17-27a-528(2)(a)(iii). No doubt this will be seen by some as a run around the code requirements. However, when considering the findings required for a conditional use, the state code typically requires conditional uses to be approved but may require conditions<sup>5</sup>. Because the conditional use approval or denial is an administrative land use decision, the county cannot impose conditions or requirements on a project through the conditional use process, unless they are in accordance with the applicable standards of the code, which can be difficult to apply for a unique project such as this (UCA 17-27a-506(2-3)). In considering the conditional use application, "A county may not impose a requirement or standard on a conditional use that conflicts with a provision of . . . state or federal law," which could make applying a conditional use application for a temple subject to complicated matters in determining if the conditions or standards imposed on the application were allowed under RLUIPA. Deputy County Attorney Jon Woodard recommends that if the Council supports the application(s), or through the approval process can agree with the applicant to mutually acceptable requirements that promote the general welfare, using the legislative development agreement as opposed to the conditional use process allows a path to a better process and potentially a better approval than following the normal conditional use process and standards, for this unique application.

The state code allowing legislative development agreements provides some flexibility for projects that are unique and where it is impractical to address all regulations found in a land use code. Regardless of the location, a legislative

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<sup>5</sup> UCA 17-27a-506 (2):

- (a) (i) **A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed,** to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
- (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.
- (c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

development agreement would most likely have been the preferred way to address the unique issues associated with the proposal. This Utah code sections states 17-27a-528(2)(a)(iii) states:

*A development agreement may not: allow a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Utah code section 17-27a-502, including a review and recommendation from the planning commission and a public hearing.*

Approval of a legislative development agreement is entirely up to the County Council acting as the land use authority after review and recommendation by the planning commission. There are a lot of subjective statements in the legislative development agreement that the legislative body needs to be in agreement with and by approving the agreement are in fact stating that they are in agreement with the statements.

The major items addressed in the development agreement include but are not limited to:

1. Findings that the project is consistent with the General Plan (recitals section H)<sup>6</sup>.
2. Allows the use and height as a permitted use not a conditional use and that the use meets the findings required for a conditional use (4).
3. Agreement that the proposal is compatible with the surrounding uses (4.1.2.3)
4. Memorializes public trail requirements and ongoing maintenance by the owner. (3.1.4)
5. Ensures for payment of fees (3.1.2.2).
6. Ensures for construction of project improvements (3.1.3).
7. Establishes requirements for storm water management (3.1.5).
8. Provides for performance and warranty bonds (3.1.6.1).
9. Establishes that the lighting for the project will be governed by the lighting code as approved in the lighting plan and verified in the field during construction (4.1.2.7).
10. Allows for the building height and massing as proposed (8.2 and 8.3).
11. Allows for exterior lighting during the hours of operation (8.5)
12. Allows for an MOU with Heber City regarding Center Street (8.6)
13. Stipulates that the ridgeline/Viewshed analysis portion of the County code is not applicable to the temple (8.7).
14. Stipulates FEMA flood zone requirements (8.8).
15. Allows for closure of the stub-street referred to as Pimlico Drive and stipulates requirements (8.8.2).
16. Reinforces that the County Council is the land use authority for the applications for the project (8.12).
17. Allows for signage as proposed (8.11).

If the development agreement is not approved by the legislative body a different approval process may be required i.e., a conditional use application. If approved as proposed, the development agreement would need to be acted on concurrently with the other items on the agenda.

## **SECTION 2-FINAL SMALL SCALE SUBDIVISION-**

One of the necessary items requiring approval is a small scale 1 lot subdivision that creates the parcel, minus areas for road improvements. The proposal combines two parcels into one lot as well as dedicates property for the Heber City right-of-way including the round-about. The subdivision plat combines a 9.46 acre parcel and a 7.68 acre parcel into one platted lot. The boundary description on the plat states that the acreage is 18.17 acres which includes the property dedicated to Heber City for the widening of Center Street. The property without the dedication is 17.23 acres.

**-FEMA REQUIREMENTS-** The western portion of the property is in the FEMA 100-year floodplain and is considered a Zone AE. Zone AE means that the elevation of the 100-year floodplain is noted on the FEMA maps.<sup>6</sup> This portion of the property will have no structures but will be entirely landscaped and will not be changing the elevation of the property in the zone AE. The County has been discussing the proposal with State and Federal FEMA representatives who have indicated the proposed improvements are acceptable. The plat memorializes the 100-year floodplain.

The property that is included in the subdivision plat also contains the Lake Creek Chanel in the southwest portion of the plat. This portion of the Lake Creek Chanel is considered a floodway by FEMA. Regulatory floodways do not allow manipulation of the floodway that would restrict or increase the level of the water or in other words would not create a rise upstream from the improvements. Following is a definition of a regulatory floodway:

*“The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height”.*

There cannot be a rise in water level or a constriction as a result of work done in the floodway. The applicant is proposing to do work in the floodway and a “no-rise” report has been provided by the applicant’s engineer. The work that needs to be done in the floodway includes a storm drain outfall line, new water line and connection to the sewer. When working in Floodway’s, applicants are required to obtain a no-rise certification approved by the County before any work can be completed. The no-rise report has been reviewed by the County engineer and floodplain manager and approved. The “no-rise” report also includes the ongoing ground water from the temple perimeter foundation drain that is being discharged into the Lake Creek channel. With the work being done and the water being added to the channel the 100-year elevations stays within the acceptable parameters. The plat also shows the floodway on sheet 3 of the plat.

**-PUBLIC UTILITY EASEMENT REQUIREMENTS-** 16.27.12 requires a 10' PUE to be around the periphery of the parcel which has been added to the plat. Plats with public trails must have dedication language that dedicates the property to the public as per 16.21.09, 16.21.18 G and 16.27.12. Owner’s dedication must comply with WCC 16.27.12

**-SITE GROUNDWATER-** Tests have shown that there is relatively high groundwater on the site. Groundwater is currently at approx. 15’ below ground surface. The excavation to allow for the basement will be to a depth of ~41.25 feet from finish grade. Initial discharge is estimated to be at 600-800 GPM (Gallons per minute) for 1 month after which the rate declines to an estimated 200-300 GPM. During construction, a powered pump will be used. Long term there would be an ongoing flow that is anticipated to be 50-80 GPM. This flow will come from a gravity flow French drain around the perimeter of the foundation that will be installed approximately 15’ below grade and approximately 5’ into the groundwater level, though a deeper pumping system will be installed, but only operational for emergencies or maintenance. This type of perimeter drain is not unusual. Many of the homes in the surrounding area have French drains around their basements that’s discharges into the storm drain system in the public streets.

State code on water rights in section 73-1-3 states, “Beneficial use basis of right to use. Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state.” In discussion with water engineers and the State Engineers office moving this water from the ground around the foundation of the temple to the creek would not require approvals by the State Engineers Office because the water is not being put to a beneficial use. There is a permit required for the wells for the removal of the ground water through the State Engineers Office.

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<sup>6</sup>For most of these cites in this “major items” list, the item is addressed in a few different places in the development agreement, and I have not attempted to cite every location where the item is addressed.

The well for Heber City just to the east of the site is 200’ deep. It is anticipated that the dewatering of the site should not impact the well. However, the dewatering proposal has created concerns for Heber City’s water source that is to the southeast known as the Broadhead Spring. There has been discussion with Heber City and the applicant. There are studies being done regarding these concerns that are being addressed with Heber City.

**SECTION 3-SITE PLAN REVIEW-**

As mentioned in section 1 of this report the legislative development agreement stipulates that the proposal will be considered as a permitted use. If that is the case, and the council approves the proposed legislative development agreement, the proposal still requires site plan approval. A site plan review is to ensure that the proposed use and all the necessary ancillary issues i.e., parking, landscaping, fencing, trails, lighting and building height have been considered and either comply with code or will be part of the development agreement.

–**LAND USE AND DENSITY**– The proposal is on a 17.23 acre parcel after road dedications. The RA-1 zone is primarily a single family zone however the RA-1 zone does have a list of allowed uses and conditional uses. The RA-1 section of the code refers to land use 6910 “religious activities” as a conditional use. Under the larger heading in WCC 16.36 of religious activities is listed, “churches, synagogues, temples and missions”. The definitions section of the code provides the following definition:

*CHURCH OR TEMPLE: A building, together with its accessory buildings and uses, where persons regularly assemble for worship, which building, together with its accessory buildings and uses, is maintained and controlled by a religious body. There are some accessory uses to the temple that will be discussed as part of this section.*

Below is a section of the code that allows for a temple:

6910		Religious activities
6910	Religious activities	
	6911	Churches, synagogues, temples and missions
	6912	Religious reading rooms (must be separate from church structure)
	6919	Other religious activities, NEC

On the surface it may appear that a conditional use would allow discretion to deny a conditional use. However, in reality, conditional uses are uses that are allowed but may require conditions to mitigate negative effects. While a conditional use may typically be denied if the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated, the county must approve the conditional use if reasonable conditions are imposed, or can be imposed, to mitigate the reasonably anticipated determinate effects. UCA 17-27a-506(2). The code, adopted by the legislative body, has already made a determination that a temple is allowed in the RA-1 zone but may require conditions to mitigate negative effects. If the conditional use process were used the analysis and determination denying the conditional use would be made more difficult due to RLUIPA, because the standards and requirements of a conditional use cannot conflict with federal law. UCA 17-27a-506(1).

By entering into a legislative development agreement it is recommended that the council consider the impacts associated with the temple while realizing that the temple is in a RA-1 zone surrounded by single family homes that are



limited to a height of 35' from existing natural grade. The staff report is written to help the council in this analysis, and present a possible path forward.<sup>7</sup>

*-ROADS, ACCESS AND TRAFFIC-* As mentioned, the plat dedicates additional right of way and the applicant will be making improvements to Center Street including building the round-about. The round-about will have four legs. Two legs for Center Street east west directions, the third leg is the main entrance to the temple and the fourth north leg is for the eastern bypass road. Other than the leg into the temple site the improvements are in Heber City. Heber City annexed the road when Red Ledges was annexed into the City. Heber City has reviewed the applicant's traffic report and has approved the proposed improvements to Center Street as well as the MOU for maintenance and construction.

The RA-1 zone for this size property would typically allow approximately 13-14 homes which would create a traffic demand of approximately 140 ADT (Average Daily Trips). A single family subdivision would have been required to connect to the stub street in Triple Crown (Pimlico Dr.) ADT would have been somewhat higher than the 140 ADT due to through traffic from the Triple Crown subdivision however, not nearly as high as what is anticipated by the temple. According to the traffic analysis provided to Heber City by the applicant the temple will create a peak hour AM of 173 trips (hourly not daily as specified above for a subdivision) and a peak PM of 172 hourly trips. The total estimated trips per day for a weekday is 2,014 which would be similar to approximately 200 homes. Obviously the traffic created by the temple is significantly higher than what would have been created by a single family development on the property that could have been permitted under the RA-1 zoning. We have not attempted to compare the traffic impacts of the temple to other uses possible under the RA-1 zone, such as animal kennels, veterinary services, group transient lodging, residential facilities for handicapped or elderly persons or a mosque or synagogue. Since all the roads immediately surrounding the temple and that provide the major accesses to the temple are in the City, the City has performed the review of the traffic analysis and the required road improvements that provide access to the temple site. In talking with the Heber City Engineer the LOS (levels of service) for city roads is maintained at an LOS "C" which is acceptable to Heber City.

The final statement by the Heber City Engineer is:

"In addition to reviewing the TIS in-house, Heber City also sent it out to be reviewed by Horrocks Engineer's Traffic Engineering Team. The reviews resulted in minor comments which have been addressed by the applicant through the re-submittal and review process. Based on the review, the TIS appears to meet or exceed industry standards for these types of studies and is considered acceptable by Heber City".

*-PIMLICO DRIVE THROUGH STREET AND PEDESTRIAN REQUIREMENTS-* Pimlico Drive is a stub street in Triple Crown which is the subdivision to the south of the site. Pimlico Drive stubs into the south side of Lake Creek in the southwest corner of the temple property. The stub street was intended to go through and provide for traffic flow into this property which, as mentioned, was assumed would be developed as residential. A number of code and General Plan sections require a through road. In this situation a through road is not a preferable option from a County perspective due to the increased traffic that would be generated in the Triple Crown development. The applicant, after direction from the County, has proposed to dead end but finish the road. The end of the road would be finished with curb and gutter around the north end of the stub street, a sidewalk around the outside of the curb and gutter to the west side of the street, a handicap ramp into the end of the road and placing signs denoting that the road ends. All storm drainage will be directed to the inlet box to the south and will flow appropriately.

Code and General Plan sections that require a through road and pedestrian access are numerous in the county code and include:

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<sup>7</sup>See WCC 16.08.11 for more detail on the site plan requirements.

- 16.27.28: Street Standards
- 16.27.29: Roads and Intersections
- 16.27.30: Relation to Adjoining Streets
- 9.1.6 Policy of the General Plan
- 9.3.2 Policy of the General Plan
- 9.3.3 Policy of the General Plan
- 16.08.14(H) Roads, sidewalks and trail improvements
- 16.21.18(B) New developments to connect to trails
- 16.38 County trail requirements

**-TRAIL SYSTEM-** If the temple site would have developed as a residential development the stub road would have gone through and pedestrian access would have been part of the right of way in the form of sidewalks on both sides of the road. Because it is proposed that the road not go through the applicant has proposed to finish the road as explained above and not provide for a direct pedestrian connection from Pimlico Drive. Currently there is a dirt trail at the end of Pimlico Drive on the west side of the road that connects to the canal trail. However, this dirt trail runs through private property and there is no formal easement for access. The applicant's proposal is to not require the additional pedestrian access. Their proposal is supported by their argument that there is access to the asphalt trail, which provides access to the temple, at two other places in Triple Crown. One is the access along the Humbug canal and the other is from the cul-de-sac at 1650 East.

If the County requires a pedestrian access off Pimlico Drive the applicant would either have to purchase an easement through the private property to the west of Pimlico Drive and build an asphalt trail or build a bridge over Lake Creek which would provide a more direct access off Pimlico. Both of these options are possible requirements the County could impose. The bridge option could be complicated due to the FEMA floodplain and regulatory floodway that the bridge would have to span. The applicant has stated that they do not want the liability or the perpetual maintenance of the off-site bridge or trail.

Currently there are three trails stubbed to the property. One trail runs directly behind the Heber City well and Questar sub-station site and ends at the southwest corner of the Questar site (northeast portion of the temple site). This trail was intended to connect to a future development that would be required to provide access along the Lake Creek frontage. The applicant will connect to this trail which will turn north along the west property line of the Questar property and tie into the new trail that will be built on Center Street along the entire frontage of the temple property. The second connection is the trail that runs along Lake Creek originating in the Beaufontaine subdivision. This trail stubs into the temple property on the southeast side. This trail will connect along the south side of the temple and run west to the canal where it will turn north and intersect with the Center Street Trail that will be built in front of the temple. The third connection will tie into the existing trail that runs along the west side of Triple Crown on the East side of the canal and stubs to the southwest side of the temple property.

**-SETBACKS-** Some of the concern of the proposal is the size of the structure and the proximity to residential uses and Center Street. The setbacks provided on the site plan are the following:

- The setback off Center Street is 208'-1".
- The setback to the east property line at the closest point is 184'-5".
- The setback to the south is approximately 226'-10"
- The setback to the west property line is 756'-7".

All setbacks are significantly greater than the setbacks for the RA-1 zone which are: Front setback is a minimum of 50' from Center Street, side setbacks are a minimum of 10' and a total of 24' and the rear setback requirement is 30'. 16.21.19(A) entitled, "Transitional development standards for nonresidential uses bordering residential zones states",

- A. Where a lot in any business, commercial or industrial zone abuts a lot in any residential zone or use, there shall be provided a landscaped yard of at least ten feet (10') in width along such property line. In addition, the required setback shall increase as building height increases: the building shall be set back at least one foot (1') for each two feet (2') of building height above twenty feet (20')

This code section is arguably not entirely consistent with the temple proposal in that the temple site is not zoned for commercial or industrial however the general intent can be applied since the use is adjacent to residential uses. Section 16.21.11 of the Wasatch County Code states that "additional setbacks may be required" for churches that are granted a greater height than is permitted in the zone, but does not place clear guidelines for how much additional setback should be required. In this context, the standard of 16.21.19(A) provides an objective standard that has a similar purpose, and can help guide the county.

The code requires that commercial uses adjacent to residential zones or uses is required to provide a landscaped yard of at least ten feet (10') in width along such property line. The applicant has provided the 10' landscape strip around the site when adjacent to residential uses. The code also states, "In addition, the required setback shall increase as building height increases: the building shall be set back at least one foot (1') for each two feet (2') of building height above twenty feet (20')". While this code is not completely applicable if it were used the following setbacks would be required for a commercial use of this height adjacent to a residential use.

- North setback would be a minimum of 105' the site plan provides 208'-1"
- East setback 105' the site plan provides 184'-5"
- South setback 105' the site plan provides 226'-10"
- West setback 105' the site plan provides 756.6"

Even with the larger setbacks, that aren't directly applicable by code, this application is exceeding the setback requirements however, the building is very large for a zone that anticipated a maximum height of 35', and through the legislative development agreement process the council does have discretion on both the setback and height issues. However, under a conditional use application, the County may struggle to support a more restrictive setback requirement under the applicable codes, and RLUIPA.

*-NOISE/MAINTENANCE BUILDING-* As mentioned in the definition for a temple there is an allowance for ancillary uses. The proposed site plan shows a ~2,000 sf. temple maintenance building in the northeast portion of the site. This building will have loading docks on the north facing side as well as a cooling tower for the temple. 16.21.09, 16.23.07 or 16.28.02 requires that noise should be taken into consideration adjacent to residential uses. 16.21.19(H) states that all mechanical equipment (i.e., air conditioners, fans, pumps, etc.) shall be located within the building or on the roof with parapet walls in non-residential uses bordering residential uses. Any mechanical equipment located on the outside of the building within twenty five feet (25') of the nearest residential use/dwelling must have a visual/noise barrier (masonry wall) and/or landscaped berming that completely surrounds the equipment and extends at least one foot (1') above the equipment. The wall proposed around the cooling towers does not extend a foot above the cooling tower but the setback to a residential use property line is ~40'. 16.21.19 states that no loading docks, delivery pick up areas, etc., may be located within fifty feet (50') of a residential use/dwelling. These areas must be screened from the public view with a six foot (6') masonry wall or solid fence.

At 13' tall the maintenance building is significantly lower in height than a single family home that could have gone in this location. The side setback to the east property line is 20' where a single family home could be 10'. The setback to the south property line is 40' where a single family home is allowed to be 30'. The cooling tower attached to but to the west side of the maintenance building is 40' from the south property line with a solid 13' tall masonry enclosure surrounding it. South of the maintenance building there is a 40' landscape buffer and an 8' solid concrete wall on the south property line. On the east property line, adjacent to the Questar Gas sub-station, there is an 8' decorative metal perimeter fence. There has been some concern regarding the noise of the maintenance building and the cooling towers. The County asked the applicant to do a noise study (see attachment). The study states that the noise at the property line will be 46 dBA and 34dBA on the outside of the solid concrete wall at the property line. For context 34 dBA is compared to rustling leaves or a whisper.

Associated with the maintenance building area is a dumpster within an enclosure to the northeast of the maintenance building. The dumpster enclosure is solid masonry block that is 7'4" tall with solid gates on the front. The dumpster enclosure backs up to the trail and the Questar natural gas site to the east. WCC states that "No trash container shall be located closer than twenty five feet (25') to a residential property line". The proposed location is approximately 90' from a residential property line. The setback from the dumpster to the future trail corridor is approximately 7' however to the common property line with Questar it is approximately 25'.

– *OPEN SPACE/LANDSCAPING* – Landscaping for the site is abundant as compared to most proposals. 44% of the site is landscaped. There is a mixture of a total of 523 evergreen and deciduous trees to be planted on the site. The site will also have 4,581 evergreen and deciduous 5 gallon shrubs. In addition to this there will be other ornamental grasses, annual and perennial flowers and groundcover. At one point the buffer around the south and east sides of the temple, where the temple parking lot is adjacent to residential uses, did not have the required 10' landscape strip. This has been updated to show 10' as a minimum. Section of 16.21.19(D) needs to be complied with which requires the 10' landscape buffer between parking areas and residential uses with trees spaced no further than 25'.

-*FENCING/WALLS*- The entire site is enclosed in either a fence or precast concrete wall. The south property line, where the parking lot is adjacent to residential uses, is enclosed by an 8' pre-cast wall. Inside of the concrete wall is a 10' landscape buffer. In areas where landscaping (not parking) is adjacent to residential uses the solid pre-cast wall is replaced with a decorative metal fence. Walls and fences are approximately 8' tall.

– *PARKING* – Due to the unique nature of this project, the County required substantial evidence for determining the number of parking stalls, in addition to the 16.33.13 parking matrix. Under the matrix, a church (which 16.04.02 defines as the same as a temple) which has classrooms, chapel and offices bases the parking from the seating capacity in the chapel (the main assembly room). This method would not account for the large number of temple workers, baptismal font, endowment rooms, sealing rooms, waiting rooms, offices etc. Section 16.33.12(K) allows for a parking study to be done which would help ensure there is substantial evidence supporting parking numbers when a use is proposed that is not clearly noted in the parking matrix. Due to the unique nature of the temple, we asked for a study. A study has been provided based on 1 stall for every 3 seats (as per code) in the various gathering rooms, baptistery etc. and include parking for temple workers in accordance with WCC 16.33.13. This exceeds what the county could probably clearly require from applying the WCC 16.33.13 church standard to the temple, due to the lack of a single 'main assembly room' in the temple. Center Street, and adjacent properties, will not facilitate on street parking. Ensuring the parking will be adequate for the life of the structure, and considering the growth in the area, is important.

The study provided by the church states the following:

"Seats at all assembly areas have been counted as well as other miscellaneous seats, rather than just at a "main assembly area". And then divided by 3, consistent with the Wasatch County Code section 16.33.13 for churches. These



areas include: baptistery, baptistery chapel, confirmation rooms, waiting areas, entry areas, worker study rooms, worker training rooms, bride's rooms, instruction rooms, veil worker rooms, celestial room, chapel, sealing rooms, marriage waiting room, and initiatory rooms and youth center. Per the attached calculation there are a total number of 1,217 seats in these assembly and miscellaneous areas. This number divided by 3 equals 405.67 parking stalls required. In addition there is 3,899 sf. of office area. This area divided by 200 (as per code) equals 19.50 parking stalls required." Code requires a total of 426 parking stalls. The site plan provides for 454 parking stalls".

PARKING STALL COUNT	
TOTAL STALLS:	454
STALLS:	431
HC STALLS:	23

– **BUILDING HEIGHT** – Wasatch County code requires building heights to be measured from existing natural grade. With that in mind the height to the top of the west steeple from existing natural grade is 210' (because there is approximately 10' of fill over natural grade). The main portion of the building between the two steeples varies from natural grade but is slightly over 81'6". The east steeple is approximately ~141'10" when measured from natural grade.

The structure is extremely tall for this area and the allowed surrounding residential buildings are limited to a maximum height of 35'. Section 16.21.11 for churches and considered under the broader heading of land use number 6910 states the following:

**HEIGHT OF BUILDINGS:**

1. Minimum Height of Buildings: No dwelling shall be erected which has a ceiling height of less than eight feet (8') above the average level of the ground on which the dwelling is located.
2. Maximum Height:
  1. Churches: Churches are a conditional use in all zoning districts. In the event that a conditional use is granted for a greater height than is permitted in the zone, additional setbacks may be required.
  2. Structures Not For Human Occupancy: Chimneys, flagpoles, clock towers, church towers and similar structures not used for human occupancy or industrial uses, are excluded in determining height, except as specifically otherwise required in this title.
  3. Residential Structures: Height of residential structures are contained in the individual zones.

The code does not specifically place a height limit on churches and church steeples but allows them to be considered as part of the conditional use which may require greater setbacks. As mentioned before if the council approves the legislative development agreement the use will be considered permitted. Even if considered as a conditional use the height is determined as part of the approval process not under a specific height required by code. Also as mentioned earlier the setbacks for the structure are in excess of the setbacks required by code however, this type of use or the intensity of this use was not anticipated. The legislative development agreement gives the county legislative body the discretion to allow or require the height they believe is a benefit to the health, safety, and welfare of the community. If the legislative development agreement is not approved, or is not accepted by the applicant, the County may have to consider the appropriate height restriction under the conditional use criteria, and considering RULIPA. The planning commission and County Council may want to consider the height and deliberate the impacts of the height in this area

that typically would have limited height to 35' for a residential structure, but would have required significantly lessor setbacks and landscaped areas without structures.

**-LIGHTING** – The lighting for the proposal is regulated under the recently adopted lighting code (Ordinance 23-01). The County is currently in litigation over ordinance 23-01. In order to ensure the project is subject to the progressive standards of ordinance 23-01, under the development agreement, the county and the applicant would agree to be bound by ordinance 23-01 regardless of the outcome of the litigation. A primary intent of ordinance 23-01 is to ensure that all lighting is at the minimum levels required by code for the IBC (International Building Code) required lighting for egress from the building to a public way and lowest recommended levels of lighting for the IES (Illuminating Engineers Society) for the parking lot including associated walkways. Lighting outside of required lighting by the IBC and recommended lighting by the IES for parking lots is limited to 25,000 lumens per improved acre. The temple lighting plan shows that the “counted lighting” required by code comes to a total of 24,939 lumens per improved acre.

As part of the review of the lighting plan submitted by the applicant the County hired Clanton and Associates. Clanton & Associates is a lighting design and engineering firm. The primary reviewer of the temple lighting plan was Dane Sanders, President of Clanton and Associates. The initial plan submitted by the applicant was not in compliance with the lighting code and was rejected. The applicant resubmitted with an adjusted lighting plan which was reviewed by the consultant and is now in compliance, according to the consultant and the applicant. The development agreement approves the lighting plan as designed. As constructed, it will only be in compliance as long as the adjustable lighting levels are kept at the levels approved and are not raised, and the lighting is directed as required. Some of the items that have changed since the initial discussion of the lighting of the temple are the following:

1. The lighting of the spire on the east side of the temple, due to its height at 135', is not regulated by the FAA. Therefore the spire will not be required to be lit to the brighter FAA requirements but will be consistent with the rest of the temple and the lighting will be extinguished after open hours consistent with the rest of the temple.
2. The spire on the west side, if approved at 210 feet, is proposed to have a red static beacon on the top and will not need the top 1/3 of the spire to be lit to FAA requirements. The west steeple will not be brighter than the rest of the temple and, as is the case with the east spire, lighting will be extinguished after open hours.
3. The applicant has agreed that the operational hours of the temple will be from 6:00 A.M. to 10 P.M. for lighting purposes. This will allow the applicant to light up the exterior of the temple in a predicable manner regardless of operational anomalies, and will ensure that the exterior lights are turned off at 11:00 PM regardless of whether the temple is actually open later than 10:00 P.M.
4. The approved code allows for a maximum of 27 candelas per square meter. The highest bright spot on the temple as per the plan and renderings is 22 candelas per square meter on the west façade.

By providing lighting in areas such as walking paths, to the lowest levels recommended by the IES, but where not required by the IBC, the applicant has facilitated lit walking areas that are probably safer for pedestrians, at the expense of being able to have a brighter exterior to the temple. The building lighting will be limited by the 25,000 Lumens per improved acre cap.

There are two 15' high poles on the west side of the temple to light the west façade more uniformly. With the luminaries the height is 17' 9". These poles have 4 spotlights on each pole. These poles will need to be lowered so that the height is 15' to the luminary or light source. These pole mounted luminaries will also need be field adjusted so that the adjustable shields have full cut off provided by the building.

The code defines pole height as:

*POLE HEIGHT: The distance in the vertical direction above finished grade to the lamp or light source of a pole-mounted luminaire.*

As a condition of approval all lighting will be required to be field verified to ensure lighting levels are compliant with the approved plan and code and that the adjustable up lighting has full cutoff as required by the code. Lighting levels should be limited to the approved levels in perpetuity as a requirement of the development agreement. The lighting plan submitted, reviewed, vetted in public hearings and approved by the legislative body should be the final plan used in the field.

By lowering the height of the temple west spire, the need for any FAA lighting would be eliminated. However, the County is not certain what that height is. Ordinance 23-01 exempted “any form of lighting whose use is mandated or otherwise governed by any legal jurisdiction higher than that of the County.” If the applicant were to apply under Ordinance 23-01 without a legislative development agreement, the lighting considerations under Ordinance 23-01 would not be used to limit the height of the structure. This issue was considered in the enactment of Ordinance 23-01, for which the Church was the applicant. However, in the context of a legislative approval, the County legislative body could consider or require a lower height to eliminate the FAA lighting requirement. If the County legislative body desired to consider this, we may want to retain an expert that specializes in FAA lighting requirements. As proposed, the legislative development agreement holds the temple to the standards of Ordinance 23-01, including for exempting lighting that is required by the FAA, as was contemplated when the County legislative body approved Ordinance 23-01.

– *SIGNAGE* – Typically the RA-1 zone only allows for home occupation signs attached to the dwelling and entry monument signs for subdivisions (16.08.14(A)). Home occupation signs are limited to 2 square feet in area. Typically signs for churches are attached to the building and are approved as part of the conditional use. The temple proposal is for a monument sign that is a little over 3’ x 13’. It is included in the development agreement as a legislative approval for the project. The exterior inscriptions of *Holiness to the Lord* and *House of the Lord* are also allowed, as is signage permitted by the Manual on Uniform Traffic Control Devices to help guide vehicular and pedestrian traffic in the project. The applicant has represented that the temples of the Church draw people from outside of the community, and this signage will promote safety and welfare by helping people find the temple, and understand what the temple is, and navigate the premises safely. In approving the development agreement, the County would be agreeing to these things. If the development agreement was not approved, the signs would need to be re-evaluated in light of the standards of the Wasatch County Code and the requirements of RLUIPA.

-*LEGAL AND FISCAL ANALYSIS*-A legal and fiscal analysis has been provided by the Attorneys office as well as the Clerk’s Office and attached as Exhibit Q.

#### **DEVELOPMENT REVIEW COMMITTEE/FISCAL REVIEW**

This proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards, and codes. A report of this review has been attached in the exhibits. The Committee has accepted the item for Planning Commission to render a decision. Deputy County Attorney Jon Woodard has reviewed the development agreement and the ordinance, and has no legal objections to them as drafted. The Clerk/ Auditor office of the county performed a fiscal review, and found the ordinance and development agreement, as drafted, would have no significant fiscal impact on the County and would not result in an increase or decrease in taxes or debt. Reports of these reviews have been attached in the exhibits.

## **ITEMS FOR CONSIDERATION**

Normally under Utah Code, if an application meets the requirements of the code, the land use authority must approve the application. Due to the legislative development agreement, which allows a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, the Council has greater discretion than would normally be allowed. For this reason, staff's role in helping the land use authority evaluate whether the application meets the requirements of the code is different from most land use applications that do not involve a legislative development agreement.

The legislative development agreement, under which the project is proposed to be approved, opens up policy issues, for which the county legislative body must determine if the legislative development agreement promotes the general welfare. In considering this, the planning commission and council may consider discussing:

- The proposed height.
- Proposed roads, trails, traffic, and parking.
- The MOU with Heber City and the applicant.
- Pedestrian access at the end of Pimlico Drive.
- The lighting plan.
- Hours of operation fixed at 6 A.M.- 10 P.M. with lighting off at 11.
- The temple may not be subject to FAA required lighting if the west tower were lower.
- The dewatering plan.
- The ridgeline and viewshed ordinances and determining those ordinances do not apply in the valley floor.
- FEMA requirements.
- Using the legislative development agreement process for approval (UCA 17-27a-502).
- Not requiring the temple and the lighting to go through a conditional use process.
- The signage proposed.
- Approving the project as consistent with the intent of the general plan.
- Does the approval of the temple promote the general welfare?

## **POTENTIAL MOTION**

Move to Approve with Conditions consistent with the findings and conditions presented in the staff report.

### *Findings:*

1. The proposal is for approval of a legislative development agreement, one lot final subdivision plat approval and site plan approval.
2. Due to the uniqueness of the proposal, among other reasons stated in the development agreement, the County Legislative body has decided to enter into a legislative development agreement as allowed by Utah Code 17-27a-528(2)(a)(iii).
3. The legislative development agreement process was discussed with the council on June 21, 2023 in a public meeting and no reason for not following this process was given by the council.
4. The proposal is located in an RA-1 (Residential Agricultural) zone which is a single family zone that allows churches/temples as conditional uses (WCC 16.21.11).
5. Utah Code states that a land use authority shall approve a conditional use if reasonable conditions are proposed to mitigate anticipated detrimental effects. See Utah Code 17-27a-506(2)(a)(ii). The County has chosen a development agreement that can include additional terms that may not be allowed in a conditional use process.
6. The proposed legislative development agreement would make the temple a permitted use.
7. For reasons explained in the development agreement and this staff report, the legislative development

agreement makes both the temple and its height a permitted use, whereas without the development agreement, the temple and the height would be conditional uses that would have to be approved or denied in a manner consistent with applicable law and RLUIPA (Religious Land Use and Institutionalized Persons Act).

8. Working with the applicant through a legislative development agreement creates a substantially diminished risk that the applicant could bring claims under RLUIPA. RLUIPA is a federal law, which among other things, prohibits the County from imposing a land use regulation in a manner that substantially burdens a religious institution, unless the County proves the regulation is advancing a compelling County interest in the least restrictive means.<sup>8</sup> By having the County legislative body and the applicant agree to standards for this project through the development agreement that both are satisfied comply with RLUIPA, and also advance the health, safety, and welfare interests of the public in compliance with Utah Code, then disagreements can be avoided that could arise over whether and how RLUIPA could apply to this project.
9. A Determination denying a conditional use would be made more difficult due to RLUIPA, because the standards and requirements of a conditional use cannot conflict with federal law. UCA 17-27a-506(1).
10. Normally under Utah Code, if an application meets the requirements of the code, the land use authority must approve the application. Due to the legislative development agreement, which allows a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, the Council has greater discretion than would normally be allowed.
11. The RA-1 zone allows for single family homes with a density of 1.3 acres per unit for large scale developments that comply with code requirements, which might allow up to 13-14 lots on the subject property.
12. Single family homes in the RA-1 zone are allowed to have a maximum height of 35' from natural grade.
13. The temple is proposed to be ~200' tall at its highest point from finished grade, with ~82' to the top of the screen parapet and ~137' to the top of the east tower. Due to the natural grade sloping to the west measurements from natural grade is a range through the middle of the temple. There is ~10' of fill at the West façade and ~4' at the east façade.
14. The legislative development agreement gives the county legislative body the discretion to allow or require the height they believe is a benefit to the health, safety, and welfare of the community. If the legislative development agreement is not approved, or is not accepted by the applicant, the County may have to consider the appropriate height restriction under the conditional use criteria, and considering RLUIPA.
15. WCC 16.21.11 states, "Structures Not for Human Occupancy: Chimneys, flagpoles, clock towers, church towers and similar structures not used for human occupancy or industrial uses, are excluded in determining height, except as specifically otherwise required in this title.
16. WCC 16.21.11 states, Churches are a conditional use in all zoning districts. In the event that a conditional use is granted for a greater height than is permitted in the zone, additional setbacks may be required.
17. The setbacks for the temple are significantly greater than setbacks required by code.
18. The temple has substantially more landscaping than would be typical for a residential development and it provides a substantial area without structures that will function to protect an open area in the county.
19. ADT (Average daily trips) for a 14 lot subdivision would be approximately 140 trips per day.
20. The temple during its peak hour is anticipated to create 173 trips during peak am hour and 172 trips in a peak pm hour and 2,014 anticipated weekday daily trips. This amount of daily trips is roughly equivalent to 200 homes.
21. The roads adjacent to the site, including the eastern bypass road, are in Heber City who has approved the proposed dedication for the widening of Center Street and reviewed and approved the traffic analysis and approved an MOU with the church.

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<sup>8</sup> See 42 U.S.C. §§ 2000cc, et seq., and the resulting case law, for a more complete and exact explanation of RLUIPA.



22. The applicant is required to do improvements to Center Street as well as complete the round-about under Heber City's direction.
23. In talking with the Heber City Engineer the LOS (levels of service) for City roads is maintained at a LOS "C" which is acceptable to Heber City.
24. If the temple site would have developed as a residential development the stub road at Pimlico Drive would have gone through and pedestrian access would have been part of the right of way in the form of sidewalks on both sides of the road.
25. The proposal is to finish Pimlico Drive and not require a pedestrian connection at Pimlico Drive due to access at other places in the subdivision.
26. The proposal dewater the site by pumping 600-800 GPM of water into the Lake Creek channel after the initial foundation excavation that is to a depth of ~41.25 feet, during construction.
27. There is anticipated to be an ongoing flow of around 50-80 GPM. This flow will come from a gravity flow French drain around the perimeter of the foundation that will be installed approximately 15' below finished grade and approximately 5' into the groundwater level.
28. The Lake Creek channel is a FEMA regulated zone A-E. A "no rise" report has been submitted, reviewed and approved by the County. The State FEMA office and the regional FEMA office in Denver have also been involved in the conversation.
29. According to the State Engineers office and the applicant, if the applicant is not putting the water from the foundation drain to beneficial use, the applicant can dewater the site and discharge into the Lake Creek Channel.
30. The site plan application was submitted and considered complete after the adoption of the lighting ordinance (23-10), and is considered vested under the recently adopted lighting code regardless of the outcome of the litigation challenging the ordinance.
31. The property is in the Heber City airport flight path and is required to comply with FAA requirements. As proposed, the west tower that is 210 feet tall would be required to have a static red light.
32. FAA lighting may not be required if the west steeple is lowered.
33. The lighting code exempts the lowest levels of parking lot lighting (as recommended by the IES) and the lowest levels of IBC lighting for egress. This leaves a maximum of 25,000 lumens per improved acre for the balance of the site for non-essential pathways and building lighting.
34. The temple lighting plan shows that the "counted lighting" required by code comes to a total of 24,939 lumens per improved acre.
35. The applicant has agreed that the operational hours of the temple will be from 6:00 A.M. to 10 P.M. This will ensure that all exterior lights are turned off at 11:00 PM.
36. If the development agreement was not approved, the signs would need to be re-evaluated in light of the standards of the Wasatch County Code and the requirements of RLUIPA.
37. The Development Review Committee has reviewed the project and forwarded the item for planning commission consideration and council decision.
38. The proposed legislative development agreement adopts the project as proposed. The development agreement adopts the design guidelines, the building height, the massing, the parking, the exterior lighting and hours of operation, the cooperative agreement (MOU) regarding center street, the ridgeline analysis, the flood zone, the southern boundary property issues, the regional trail, the maintenance obligations, the signs, the process for approving the project, the land use authority for the project, the temple and the height as an approved use, payment of fees, bonding, storm water management, maintenance of trails, among other things contained therein.
39. The development agreement explains the rationale for many of the matters addressed therein. The council hereby adopts the recitals of the development agreement, and the body of the development agreement, as findings for those matters addressed therein.
40. Ordinance 23-16 authorizes the adoption of the development agreement. The council adopts Ordinance 23-

41. This staff report and the presentations made by staff during the public meetings are hereby incorporated into these findings.

### **RECOMMENDED CONDITIONS**

1. Where parking is adjacent to residential uses, trees must be spaced no greater than 25' apart.
2. The temple lighting is easily adjustable. Grounds and building lighting must be maintained at the levels shown and approved by the County Council and in the development agreement. "Light creep" cannot occur over time.
3. The presented lighting plan shows 22 candelas per square meter at the brightest spot. County code allows up to 27 candelas per square meter. The lighting plan submitted, reviewed, vetted in public hearings and approved by the legislative body must be the final plan used in the field and be consistent with the limits approved.
4. Lower light poles at the west façade so that height to luminaire or light source is not higher than 15' as required by code.
5. Any changes made by the council in their approval of the application shall be reflected in the development agreement to the satisfaction of the county manager with input from legal and planning staff, before execution.
6. The Development Agreement shall be executed by the County and the Applicant, prior to any final plats being recorded.
7. The final plat shall be recorded in accordance with WCC 16.01.16 – Expirations of Application or Approvals. In the event that there is litigation between the County and a third party or the applicant and a third party regarding this approval, that prohibits the County or the applicant from recording the final plat, the times of WCC 16.01.16 shall be tolled for the reasonable duration of the litigation. This shall not be interpreted to imply that litigation regarding this approval would, in itself, prohibit or prevent a final plat from being recorded.

### **ALTERNATIVE ACTIONS**

The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission should state new findings.

1. Recommend Approval. This action may be taken if the Planning Commission finds that the Final Site Plan is compliant as proposed with Wasatch County Code and all other applicable ordinances.
2. Recommend Approval with Conditions. This action can be taken if the Planning Commission feels comfortable that remaining issues can be resolved subject to the conditions noted and review of the County Council. ***\*This action would be consistent with staff analysis\****
3. Continue. This action can be taken if the Planning Commission needs additional information before making a recommendation, if there are issues that have not been resolved, or if the application is not complete.
4. Recommend denial. This action can be taken if the Planning Commission finds that the proposal does not meet applicable codes and/or ordinances.

## **EXHIBITS**

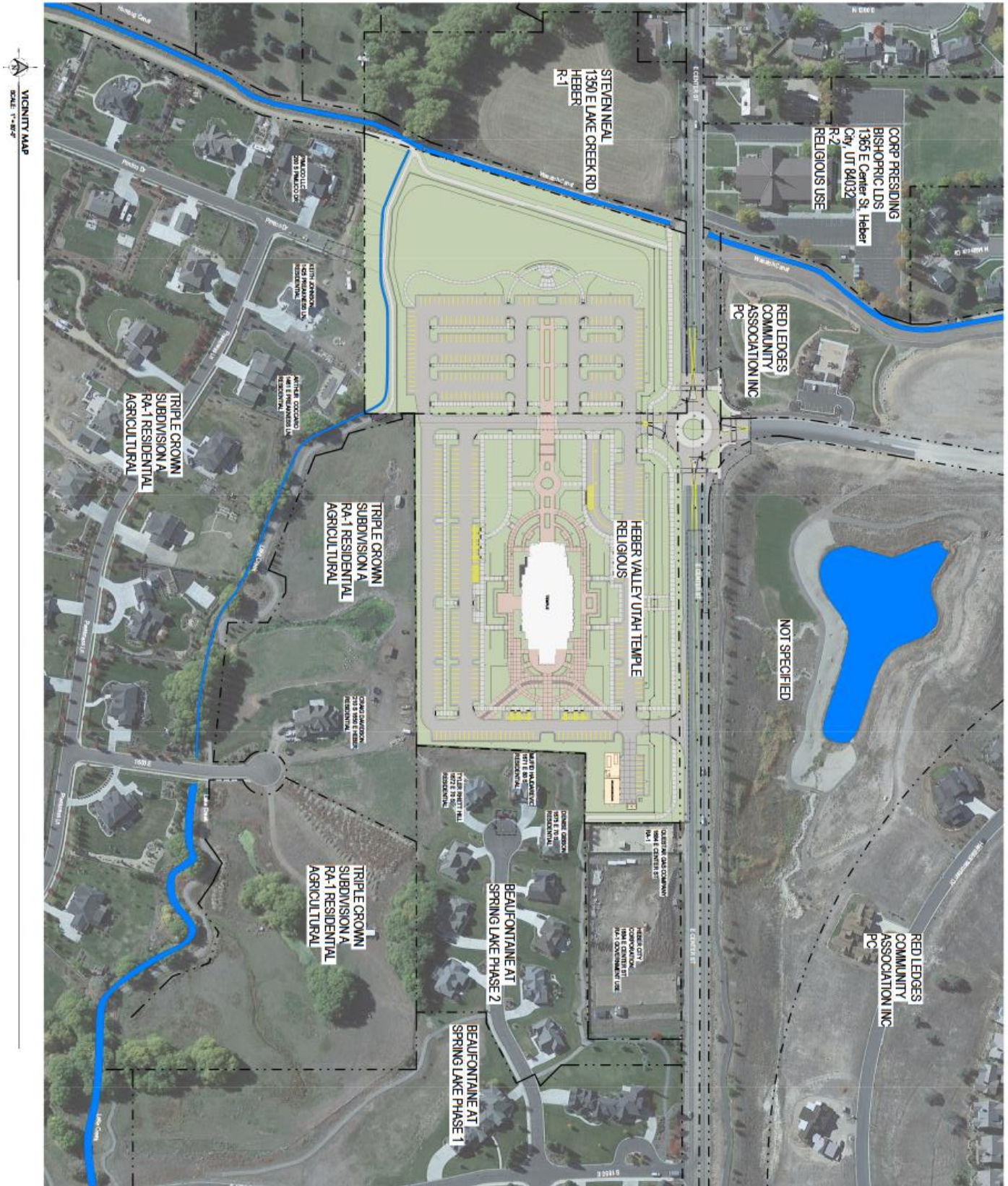
- A. Vicinity Plan
- B. Site Plan and context
- C. Summary tabulations
- D. Subdivision plat with road dedication
- E. Subdivision plat showing floodplain and floodway
- F. Off-site road improvements
- G. Site plan with setbacks
- H. Maintenance building and chiller noise study
- I. Trail connection points and trail plan
- J. Landscape plan and fence/wall location plan
- K. Wall/fencing plan renderings
- L. Architectural renderings, building heights and color palette
- M. Lighting plan and review comments
- N. No rise certification study
- O. Heber City traffic review letter
- P. DRC (Development Review Committee) Report
- Q. Fiscal Review by Attorney and Clerk
- R. Heber City MOU
- S. Legislative Development Agreement

**EXHIBIT A – Vicinity Plan**





# EXHIBIT B – Site Plan and context





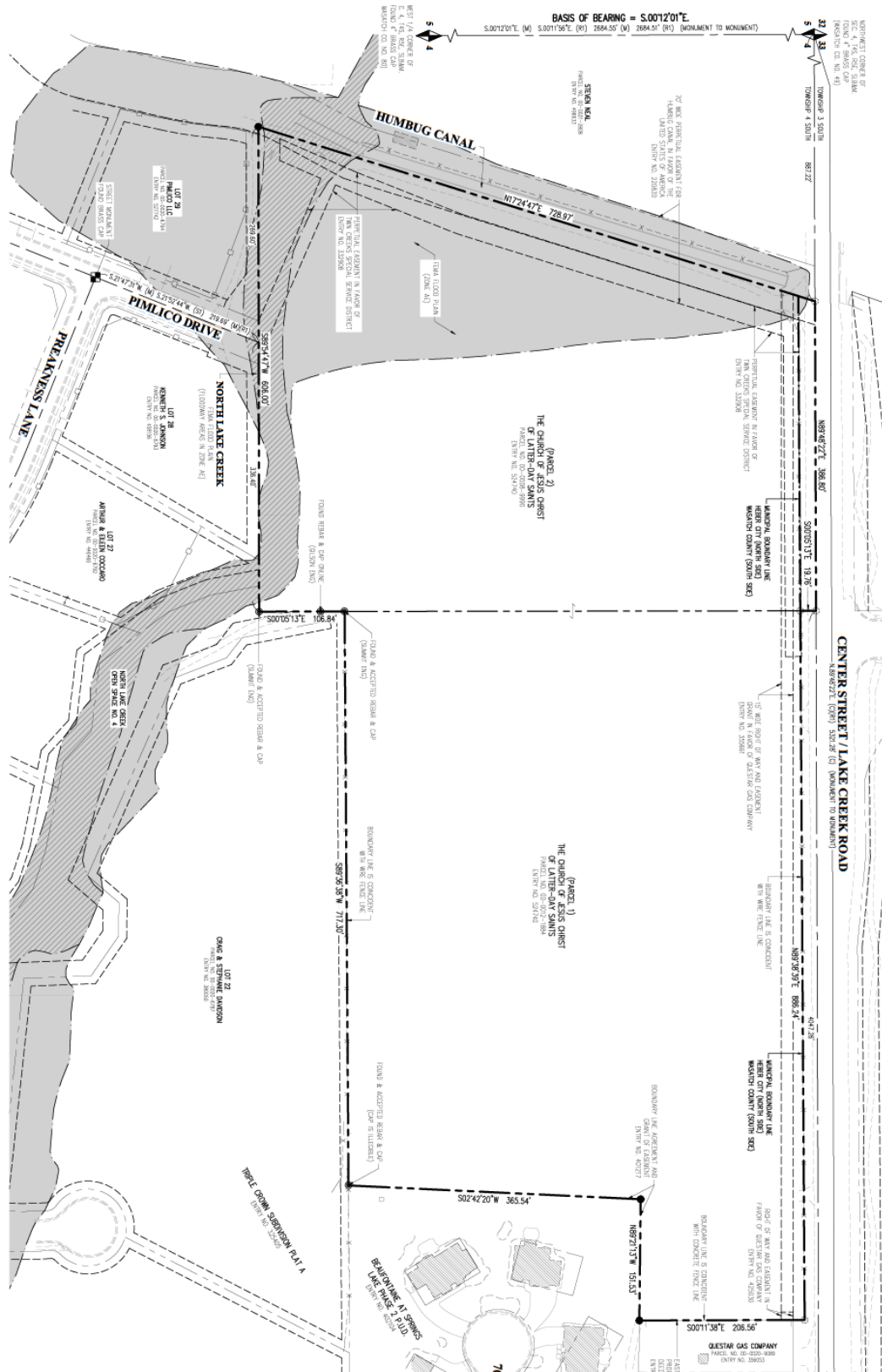
**EXHIBIT C- Summary tabulations**

SUMMARY TABULATION		
TOTAL ACREAGE:	18.17 ACRES/ 791,485 SF	
NORMAL PARKING STALLS	432	
ACCESSIBLE PARKING STALLS	23	
TOTAL PARKING STALLS	455	
BUILDING FOOTPRINT:	26,089 SF	
SUB BASEMENT	1,340 SF	
BASEMENT	21,507 SF	
1ST FLOOR	21,278 SF	
2ND FLOOR	21,262 SF	
3RD FLOOR	19,650 SF	
TOTAL BUILDING	87,626 SF	
GROUPS BUILDING	1,933 SF	
CHILLER AND GENERATOR ENCLOSURE	1,861 SF	
TRASH ENCLOSURE	234 SF	
SITE PERCENTAGES	%	ACREAGE/ SF
LANDSCAPE	44%	7.58 ACRES/ 330,334 SF
HARDSURFACE	48%	8.21 ACRES/ 357,896 SF
BUILDINGS	4%	0.69 ACRES/ 29,883 SF
UNDISTURBED AREA	4%	0.75 ACRES/ 32,425 SF
TOTALS	100%	17.23 ACRES/ 750,538 SF

**HEBER VALLEY TEMPLE SUBDIVISION**  
SITUATED IN THE NORTHWEST 1/4 OF SECTION 4,  
TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE & MERIDIAN,  
HEBER CITY, WASATCH COUNTY, STATE OF UTAH



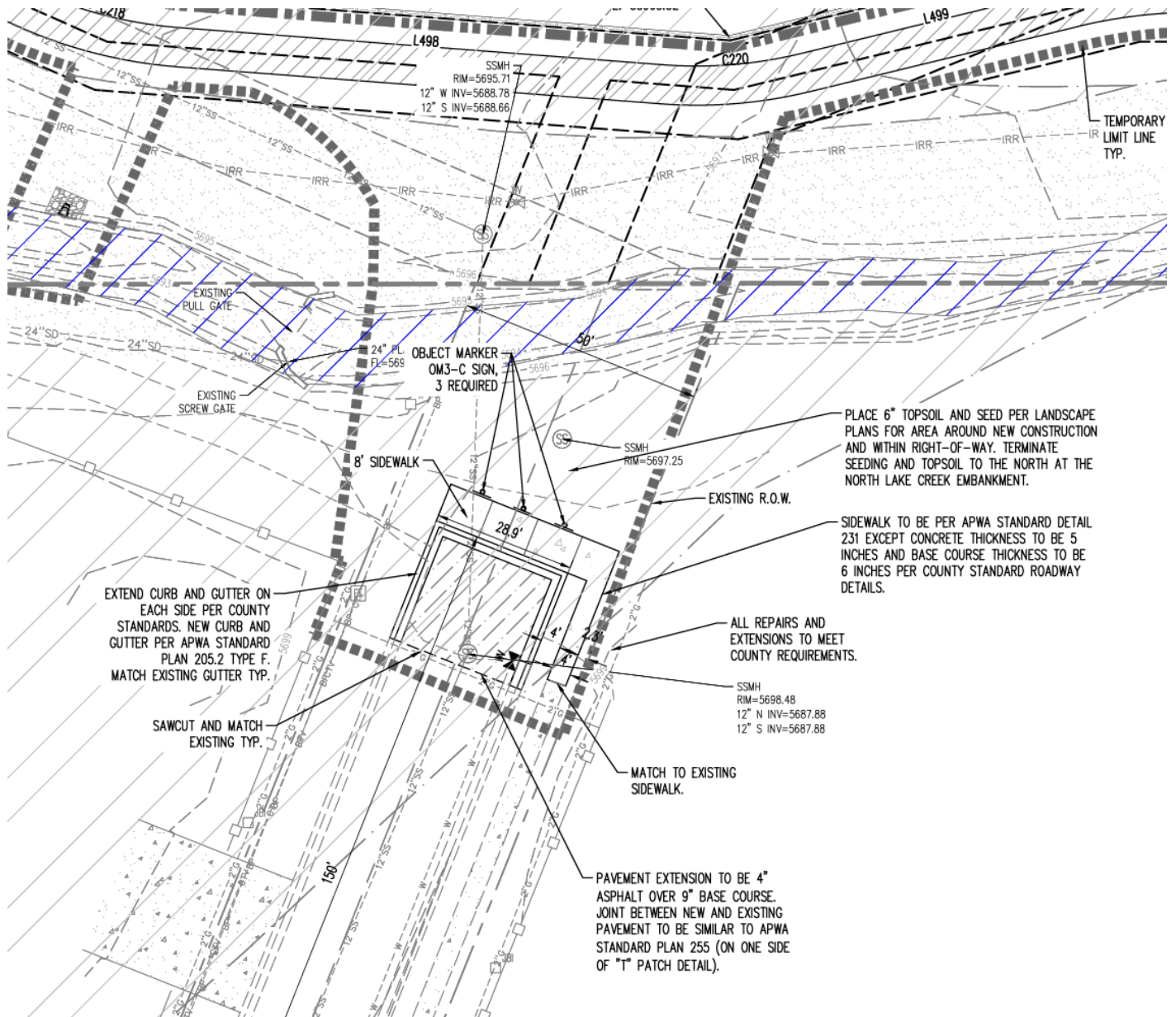
# **EXHIBIT E – Subdivision plat showing floodplain and floodway**



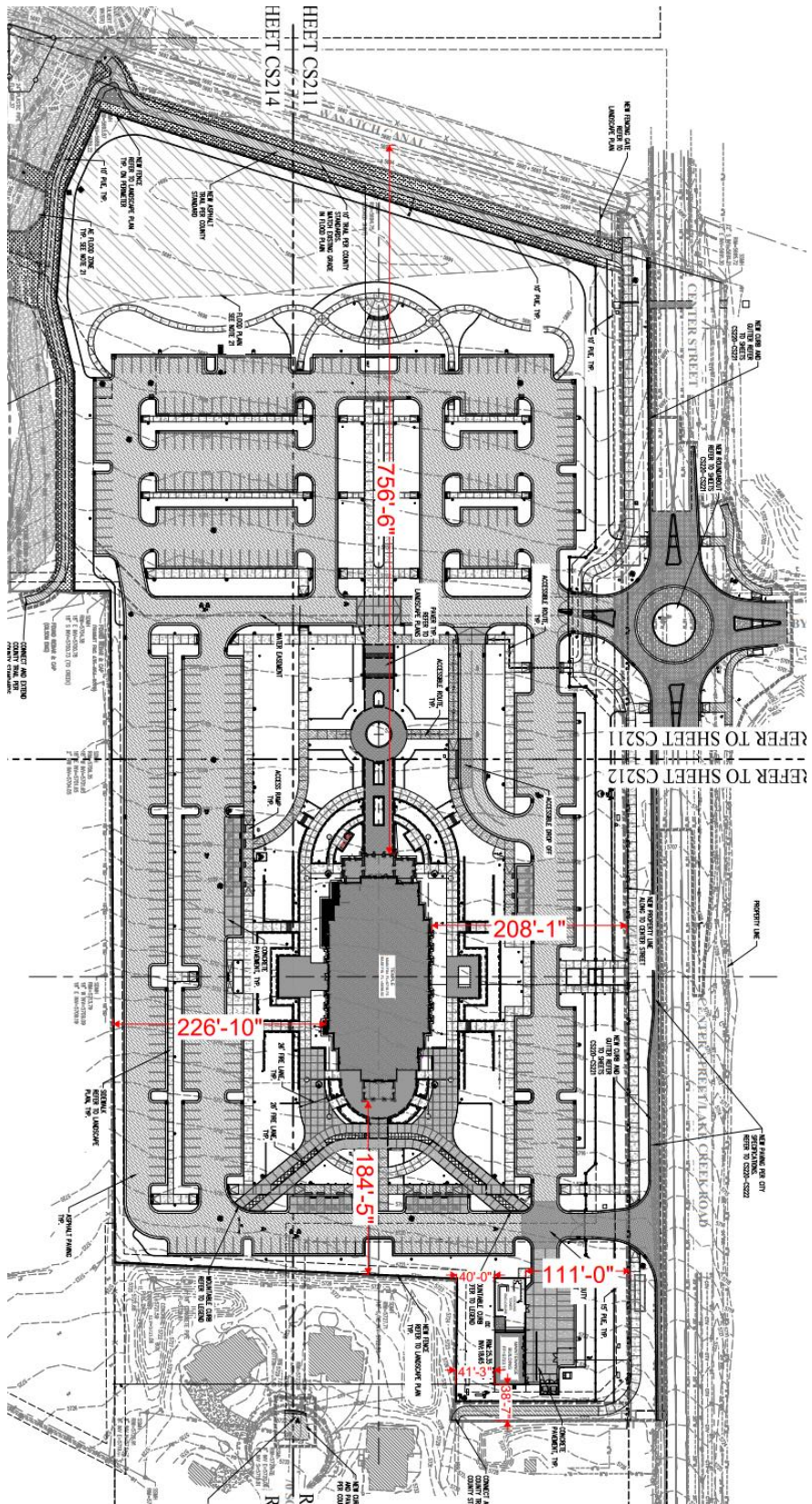








**EXHIBIT G – Site plan with setbacks**



## EXHIBIT H- Maintenance building chiller noise study



**ENVISION™**  
ENGINEERING

MEMO

### MEMO – Outdoor Chiller Noise Level Study and Estimate (updated)

<b>To:</b>	Jason Sandburg	<b>From:</b>	JiLu Feng
<b>Company:</b>	CORE Architecture, LLC	<b>Phone:</b>	801-652-8521
<b>Address:</b>	233 South Pleasant Grove Blvd. Suite 105 Pleasant Grove, Utah 84062		
<b>Date:</b>	December 13, 2022		
<b>Project:</b>	Heber Utah Temple	<b>Project #:</b>	CMA22-017

#### Purpose of Study and Estimate

An outdoor cooling unit, such as an air-cooled chiller, creates noise around it and can disturb neighbors or occupants inside the temple.

The purpose of this study is to estimate the noise level at the property line of the adjacent neighborhood and the nearest exterior walls of the temple from the chiller.

Most city ordinance requires that the ambient noise level in a residential zone to be no more than 50 dBA from 10 PM to 7 AM. This level is our targeted noise level since the noise ordinance of the city of Heber cannot be obtained currently.

The levels of noise at the points of interest are affected by the chiller's noise, the distance between the chiller and the points of interest, the chiller enclosure, and acoustical treatments to the enclosure walls.

#### Noise Source:

The noise source is the chiller itself. Based on the manufacturer's specification, at 3 feet away from the chiller, the noise levels at different frequencies are:

Frequency	Hz	63	125	250	500	1,000	2,000	4,000	8,000	Over all dBA
	dB Level	97	94	91	87	85	77	72	65	90

**ADDRESS**  
240 E. Morris Ave. #200  
Salt Lake City, UT 84115

**OFFICE**  
(801) 534-1130  
(801) 534-1080  
**FAX**

**WEB**  
www.envisioneng.com  
info@envisioneng.com  
**EMAIL**





Parameters Used for The Estimates

1. The chiller:  
Manufacturer: Daikin  
Description: Chiller with Hush Guard Acoustical Panels on top and Hush Quilt<sup>™</sup> Acoustical Absorbers on Walls of the Chiller Enclosure  
Model number: AWW016B  
Chiller Height: 100"
2. Distances from the chiller to
  - a. the property line at 55'.
  - b. the nearest exterior wall of the temple: 246'.

Calculated Results

The noise levels are:

1. 46 dBA at the property line (at the ground level).
2. 34 dBA at the exterior wall (at the ground level) of the temple.

Notes and Recommendations:

1. The noise level at the property line is 46 dBA which is lower than the typical required 50 dBA.
2. The noise level at the nearest exterior wall of the temple is 34 dBA which is lower than the typical required 50 dBA.
3. The current chiller enclosure wall height of 12'-4" is used in the calculations.



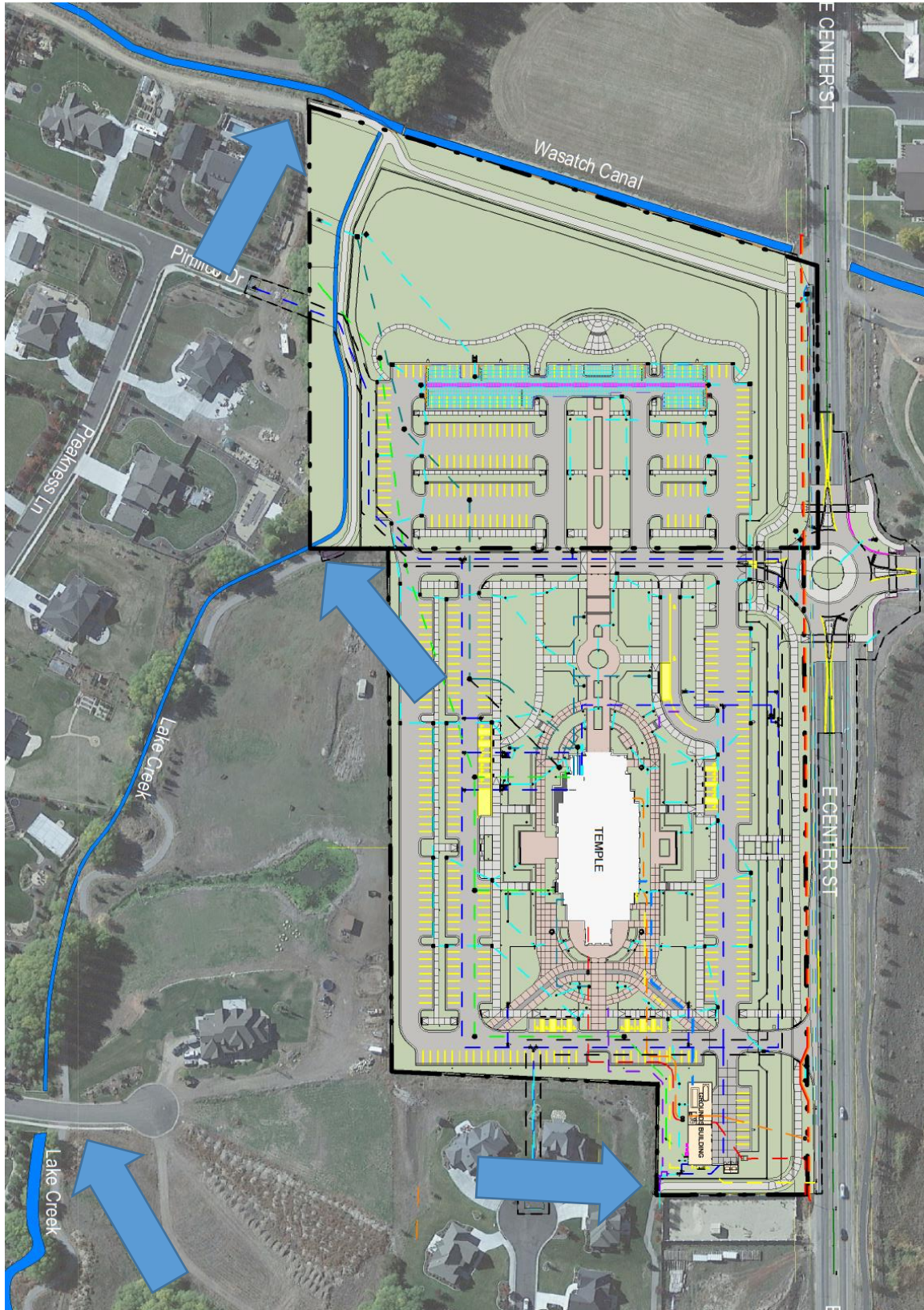
## Calculated Results

The noise levels are:

1. 46 dBA at the property line (at the ground level).
2. 34 dBA at the exterior wall (at the ground level) of the temple.

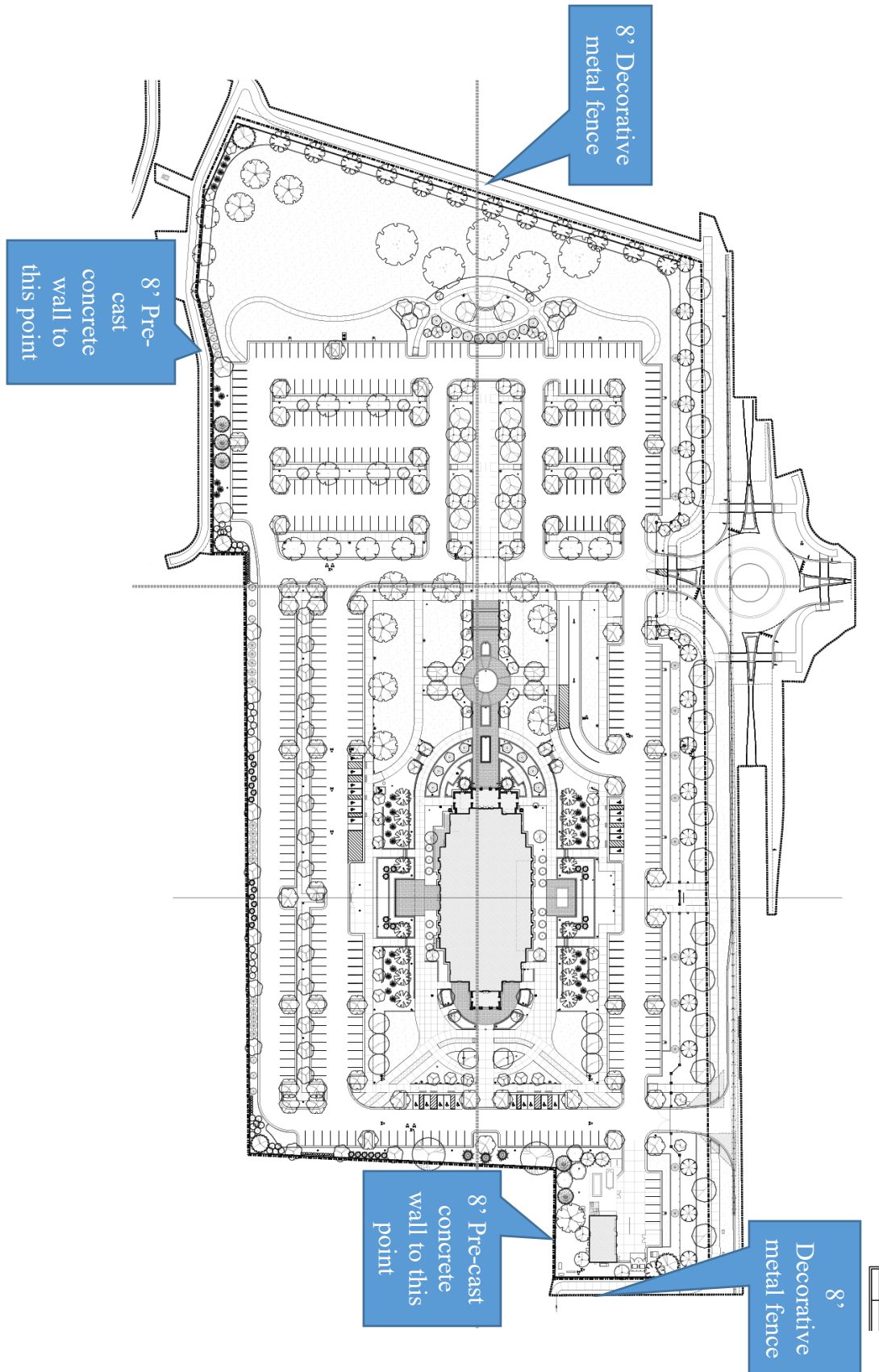


**EXHIBIT I – Trail connection points and trail plan**





**EXHIBIT J – Landscape plan and fence/wall location plan**



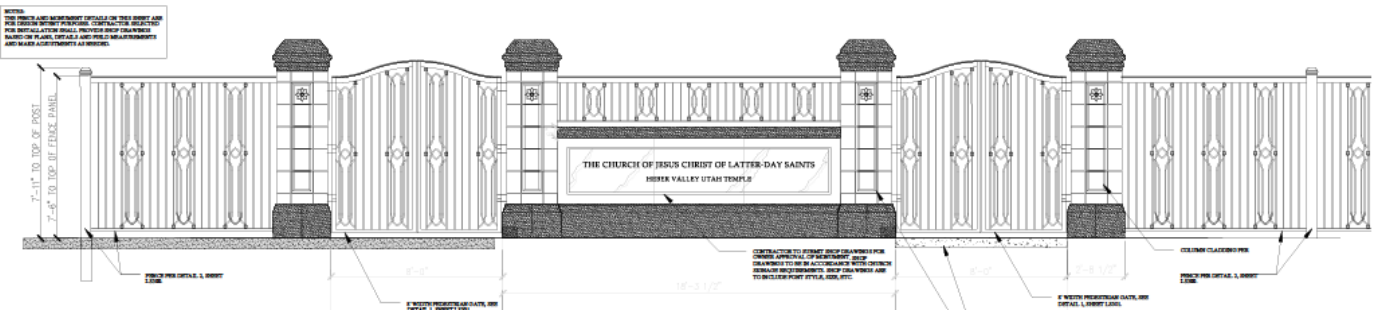




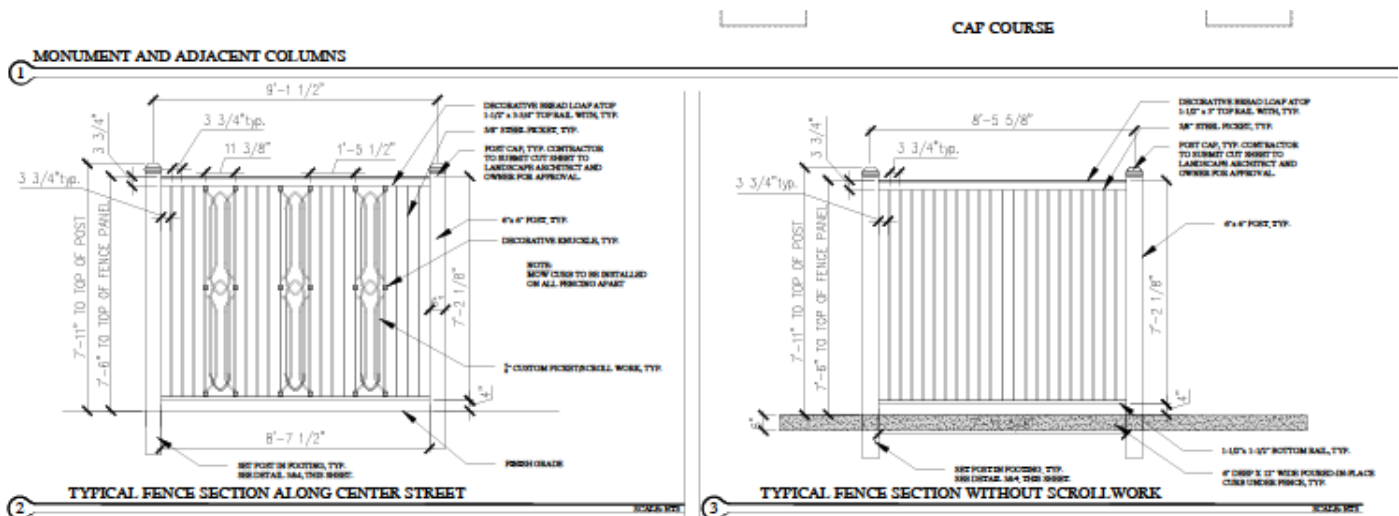
## EXHIBIT K- Wall/fencing renderings



Solid concrete wall adjacent to residential uses south and east sides.

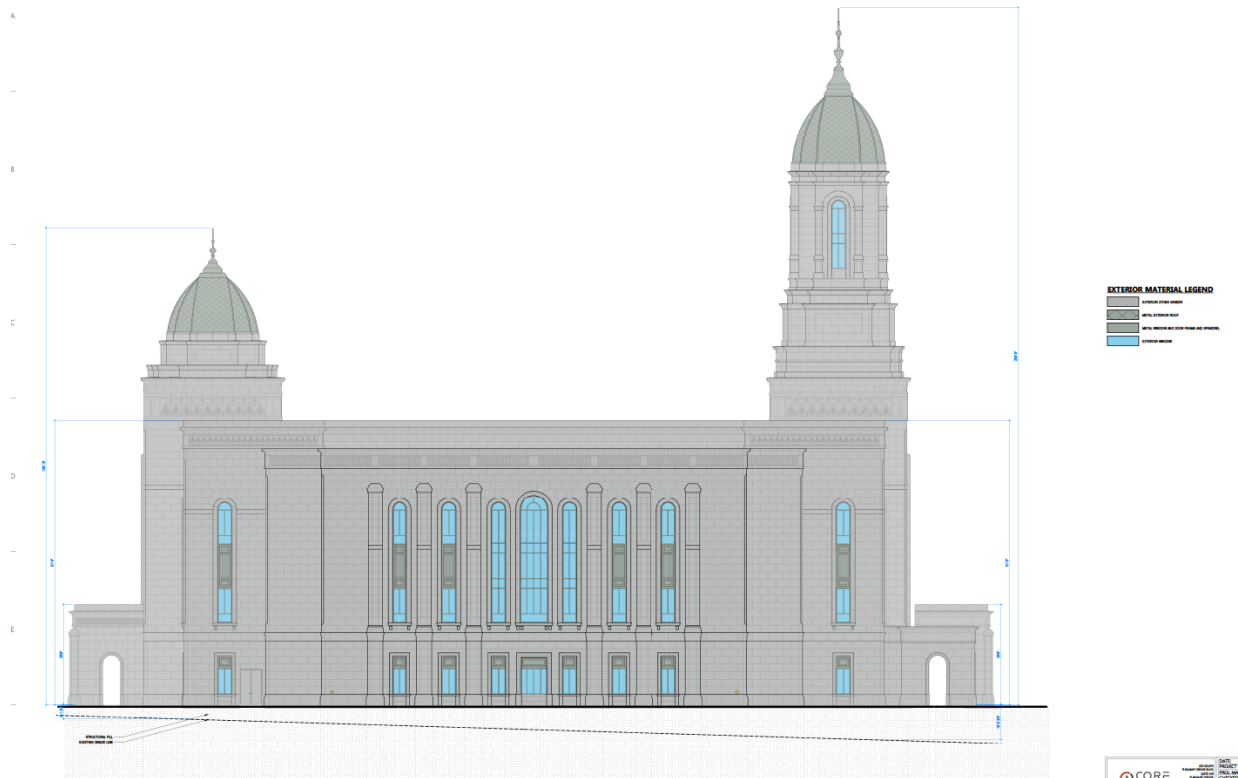
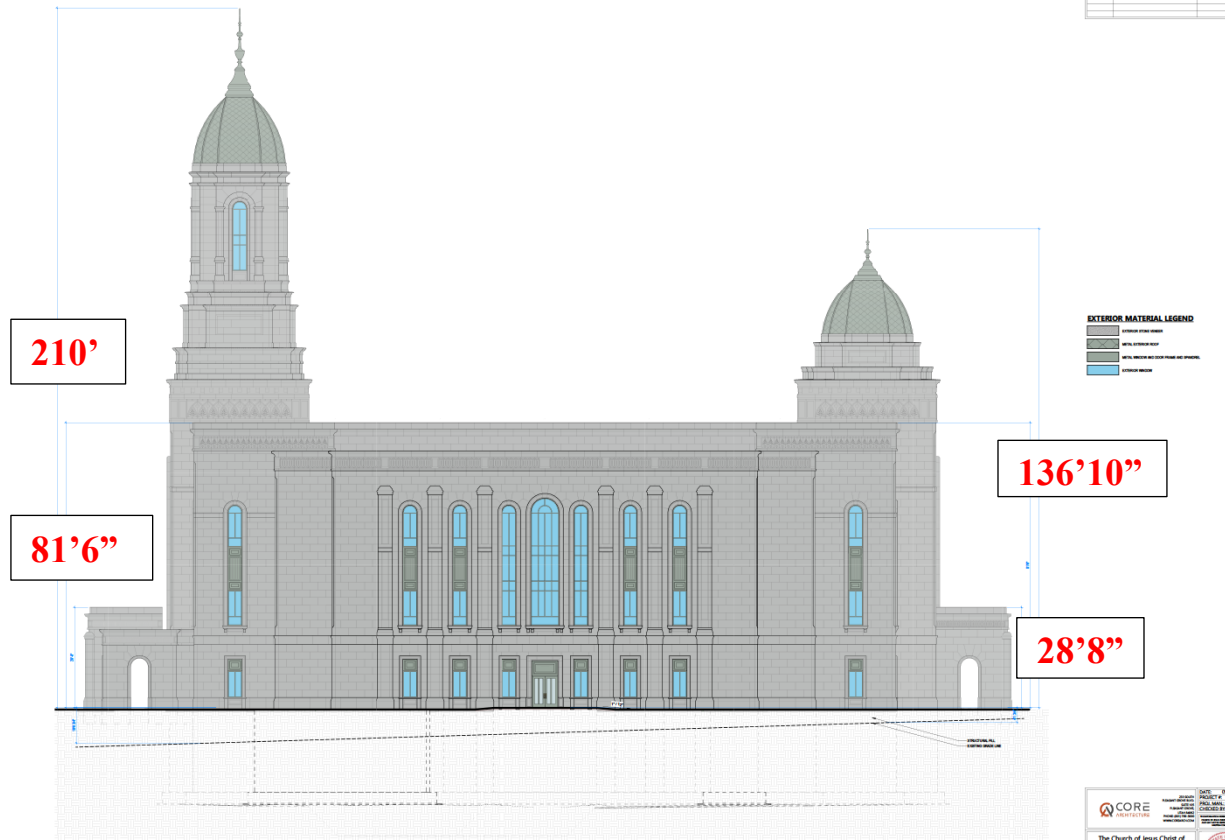


Decorative metal fence with columns north side



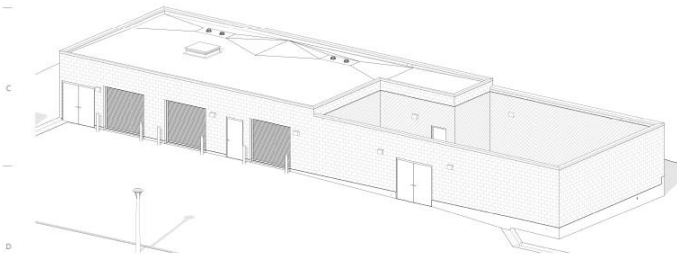
Fence without scroll work east side adjacent to the Questar gas sub-station and the west side

# **EXHIBIT L – Architectural renderings, building height and color palette**

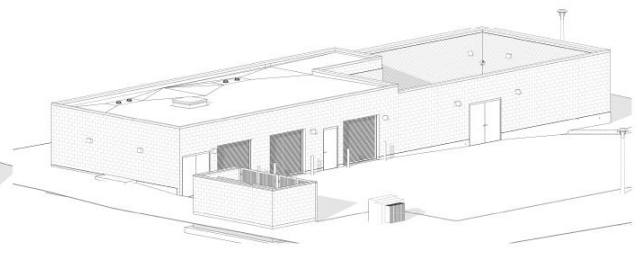




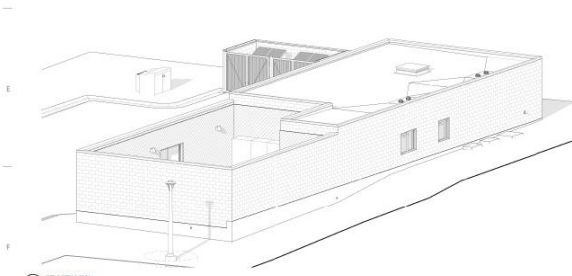
1 FIRST FLOOR M COLOR  
1/8"=1'-0"



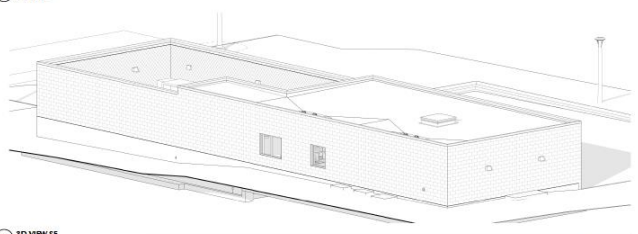
3 3D VIEW NW  
1/8"=1'-0"



4 3D VIEW NE  
1/8"=1'-0"

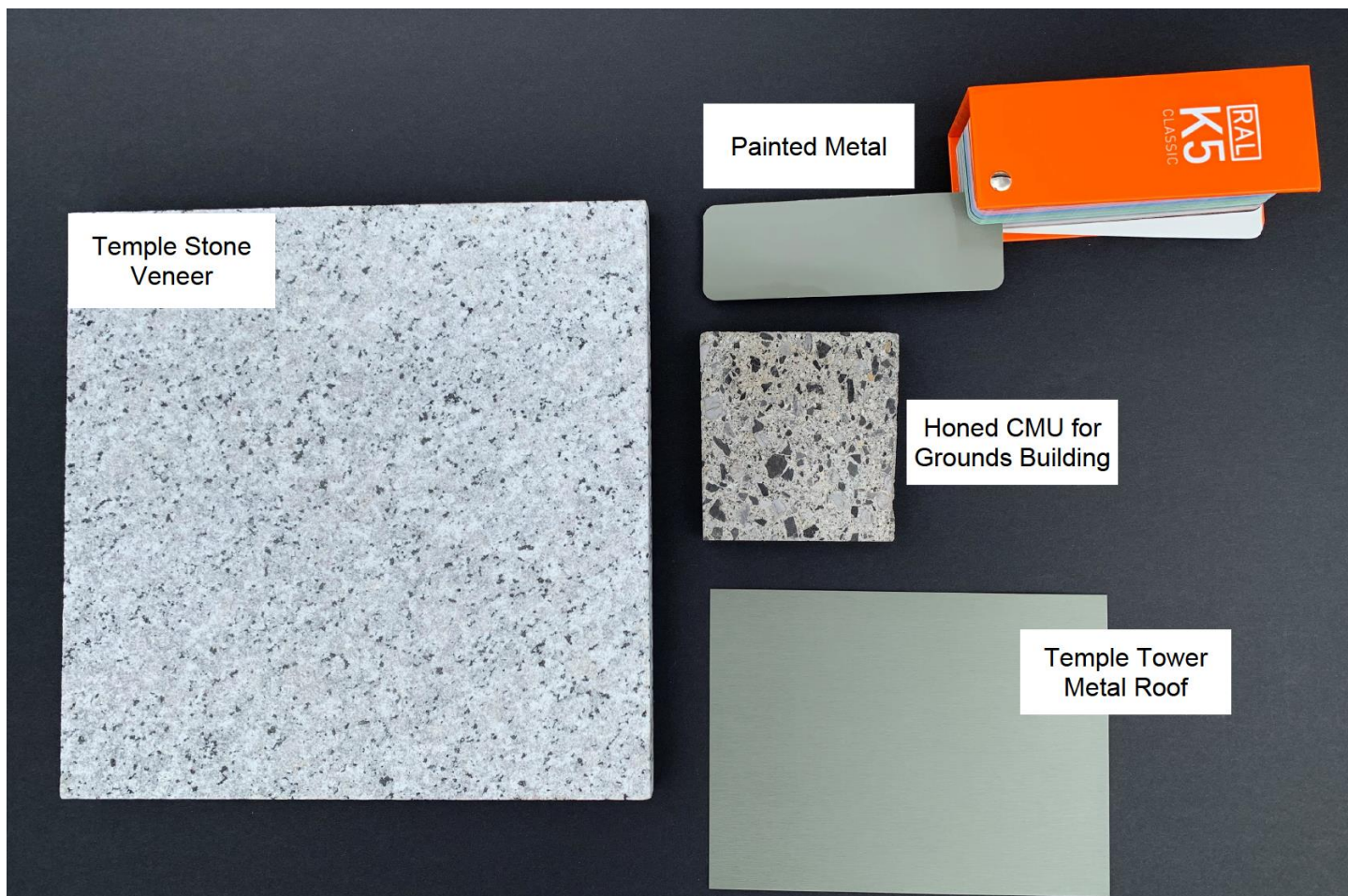


5 3D VIEW SW  
1/8"=1'-0"



6 3D VIEW SE  
1/8"=1'-0"



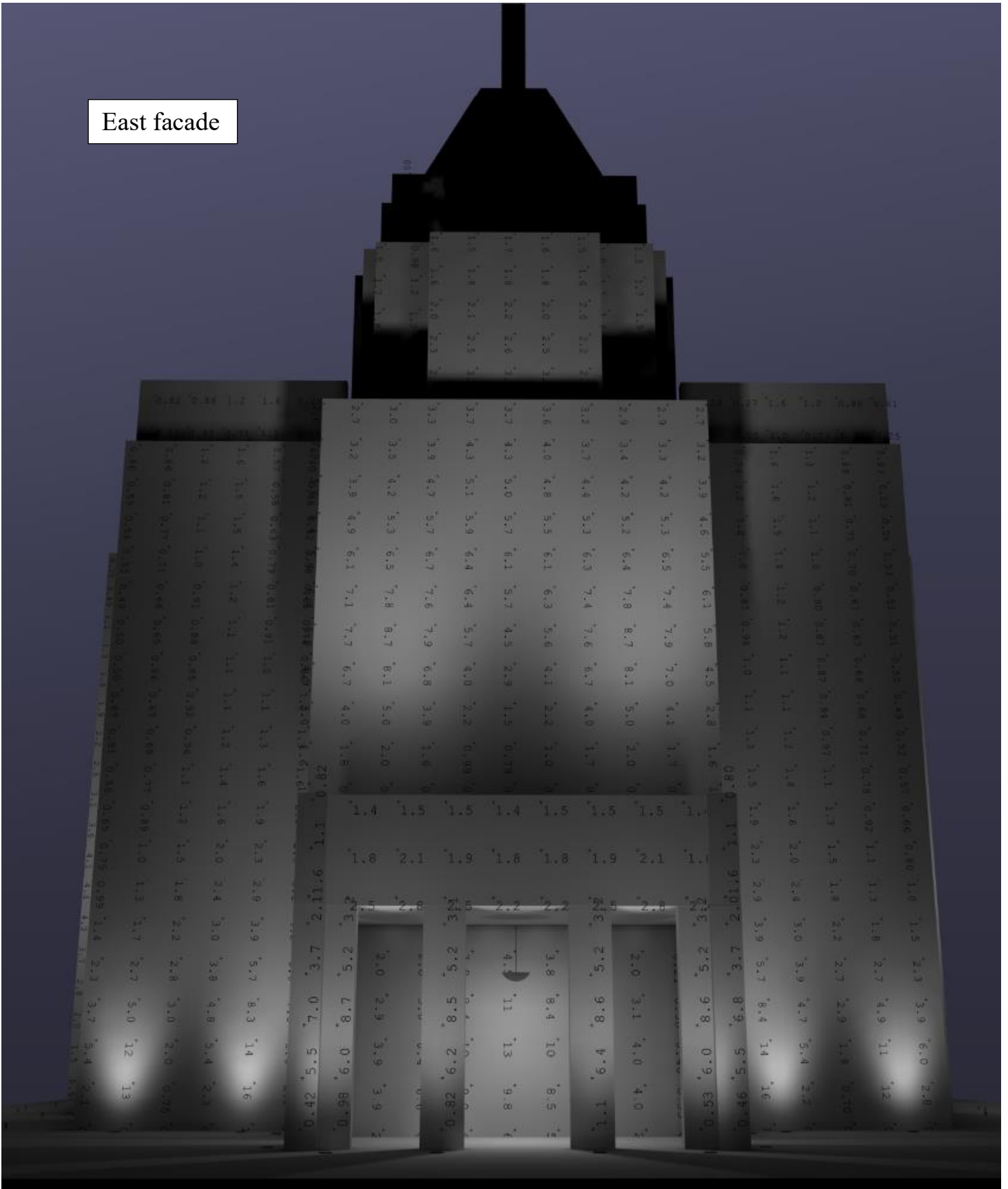


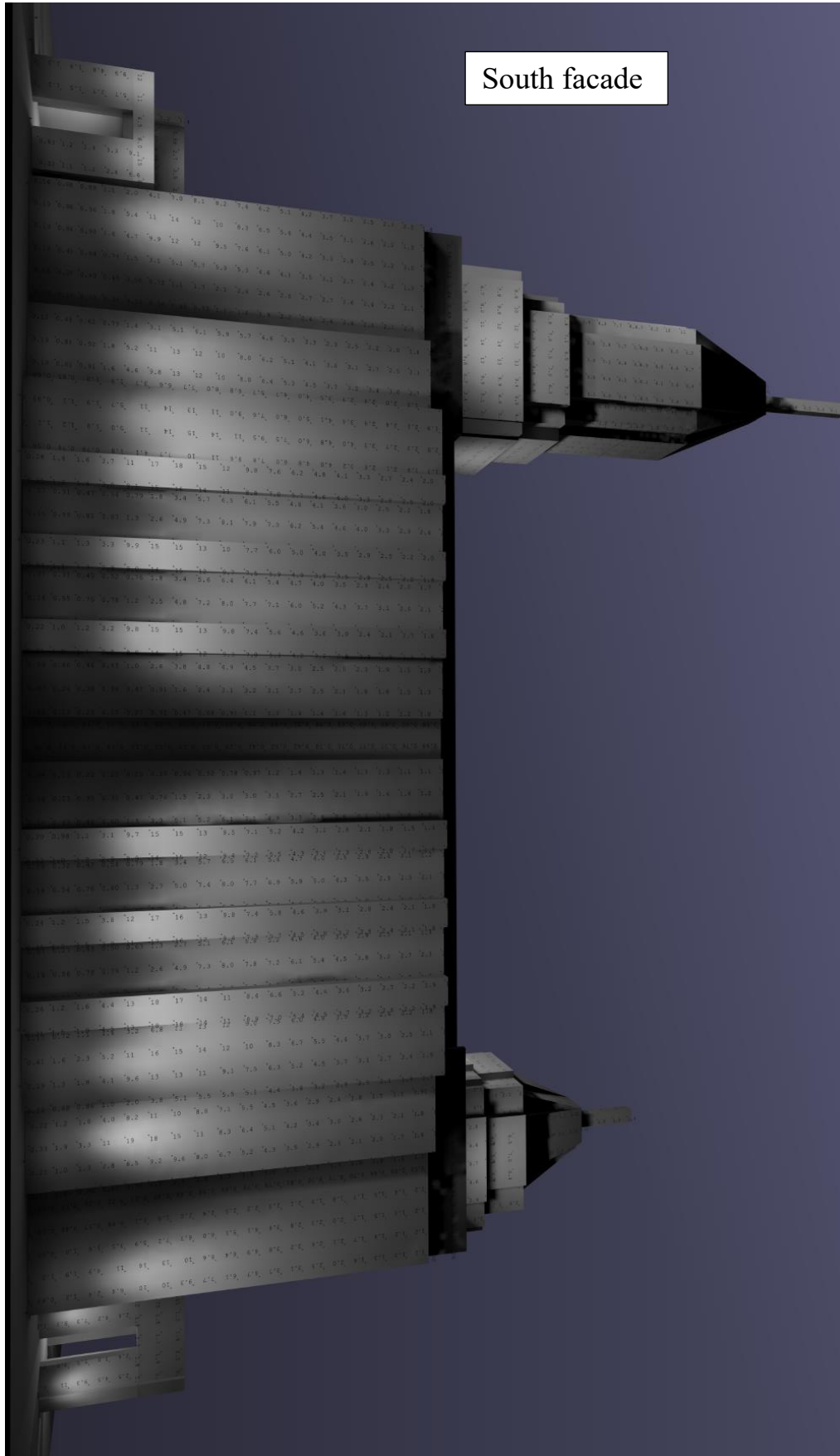


**EXHIBIT M – Lighting plan and review comments**

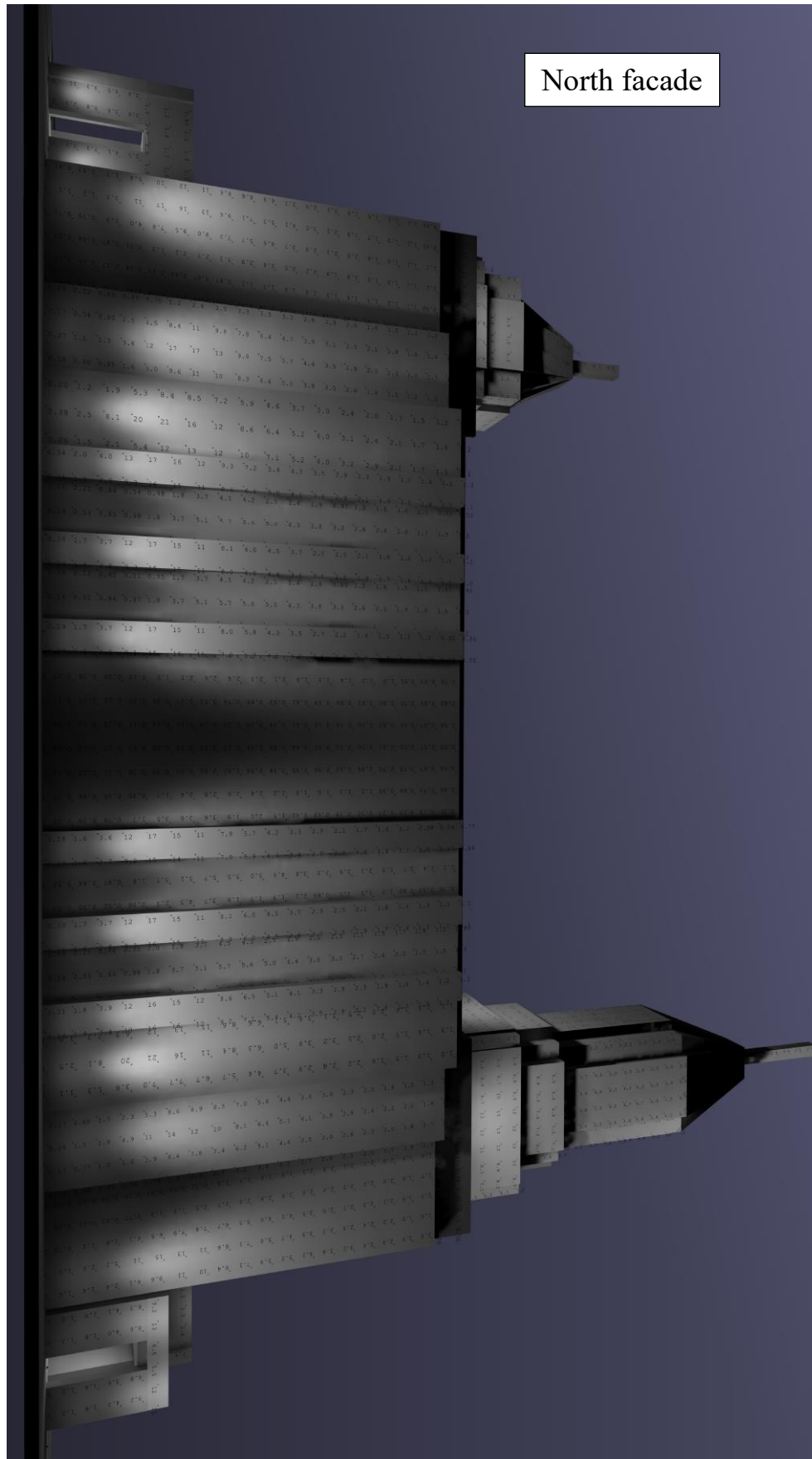


East facade





South facade

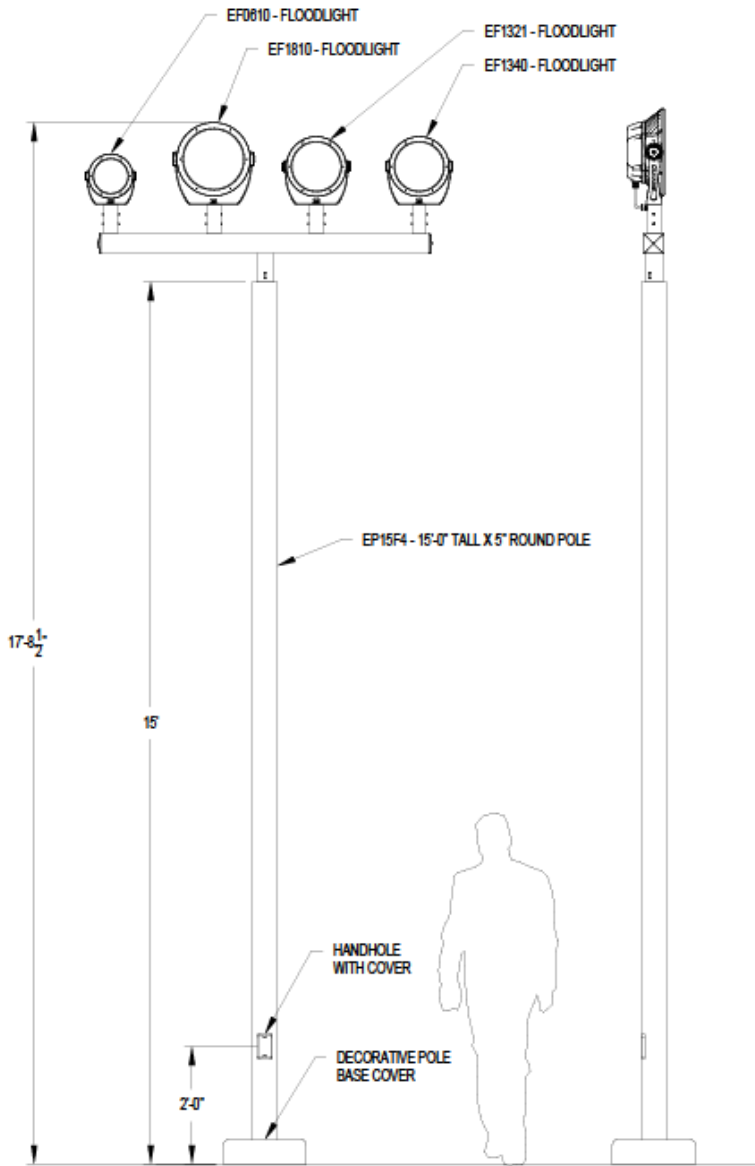




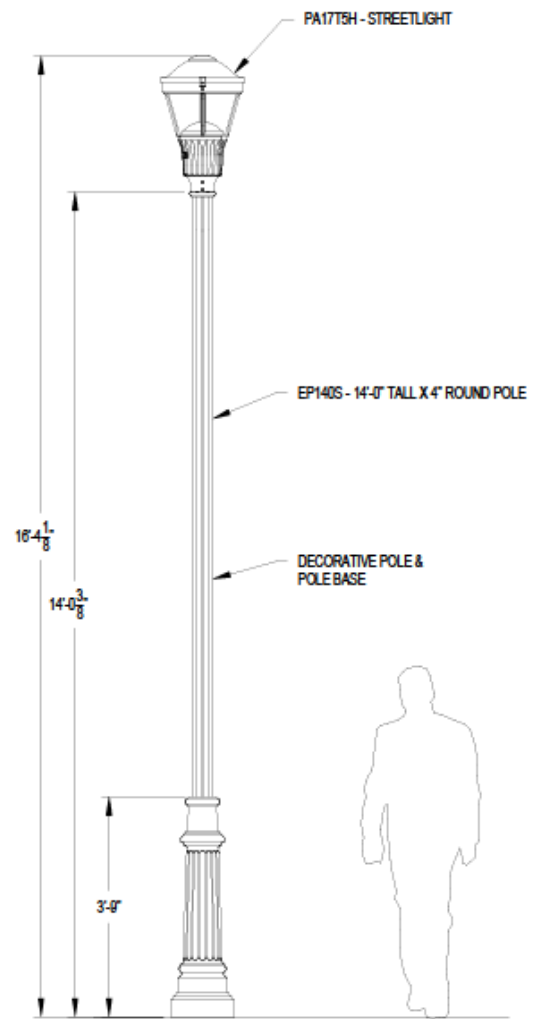
## FACADE LIGHTING RESULTS:

- MAXIMUM LUMINANCE LEVEL OF TEMPLE = 22 CD/M<sup>2</sup>

\* IF MEASURED LUMINANCE EXCEEDS 27 CD/M<sup>2</sup> DURING SITE INSPECTION, THE FIXTURES WILL BE DIMMED IN FIELD AS REQUIRED TO ENSURE COMPLIANCE WITH THE COUNTY CODE FOR MAXIMUM ALLOWED LUMINANCE LEVEL.



2 17'-11 1/4" TALL POLE ASSEMBLY WITH (4) FLOODLIGHTS  
SCALE: NTS



1 16'-4" TALL HEBER CITY POLE/LUMINAIRE ASSEMBLY  
SCALE: NTS

Façade Lighting - Lumen Summary per Improved Acre					
Fixture Type	Fixture's Purpose	Fixture Qty.	Lumen Output of Fixture	Dimming %	Total Adjusted Lumens
EF0610	Façade Lighting	2	6,287	0.50	6,287
EF0620	Façade Lighting	16	6,287	0.75	75,444
EF0621	Façade Lighting	12	6,287	0.70	52,811
EF0622	Façade Lighting	2	6,287	0.40	5,030
EF1320	Façade Lighting	2	12,574	0.75	18,861
EF1321	Façade Lighting	2	12,574	0.50	12,574
EF1340	Façade Lighting	6	12,574	0.75	56,583
EF1341	Façade Lighting	5	12,574	0.50	31,435
EF1342	Façade Lighting	4	12,574	0.60	30,178
EF1810	Façade Lighting	3	23,970	0.85	61,124
IR7B	Façade Lighting	18	1,186	0.90	19,213
EF1460	Monument Sign Lighting	3	1,408	0.16	676
FD6460	Flagpole Lighting*	1	460	1.00	460
PA23T5LL	Site Lighting (Walkways)*	12	3,747	0.90	40,468

Total Lumens:	411,142
Total Improved Site Acres:	16.486
Total Lumens Per Improved Acre:	24,939

\* Calculation Summary for Façade Lighting excludes lighting fixtures designated for IBC Egress Lighting (Section 1008), and IES Recommended Parking Lot Lighting and IES Recommended Walkway Lighting. Flagpole is downlighted using an adjustable beam aimed downward only at Flag.

IBC Egress Lighting - Lumen Summary per Improved Acre					
Fixture Type	Fixture's Purpose	Fixture Qty.	Lumen Output of Fixture	Dimming %	Total Adjusted Lumens
PA23T5H (Area Luminaire) / EP132S (Pole)	IBC Egress Lighting	10	11,241	1.00	112,410
PA23T3H (Area Luminaire) / EP112S (Pole)	IBC Egress Lighting	2	9,427	1.00	18,854
PA23T5LL (Area Luminaire) / EP108S (Pole)	IBC Egress Lighting	26	3,747	1.00	97,422
PA23T5L (Area Luminaire) / EP108S (Pole)	IBC Egress Lighting	10	7,494	1.00	74,940
PA17T5H (Area Luminaire) / EP140S (Pole)	IBC Egress Lighting	1	0 (Exempt)*	1.00	0 (Exempt)*

Total Lumens:	303,626
Total Improved Site Acres:	16.486
Total Lumens Per Improved Acre:	18,417

\* Calculation Summary for IBC Egress Lighting excludes lighting fixtures designated for Façade Lighting, IES Recommended Parking Lot Lighting, IES Recommended Walkway Lighting, and Heber City Streetlights.

IES Parking Lot Lighting - Lumen Summary per Improved Acre					
Fixture Type	Fixture's Purpose	Fixture Qty.	Lumen Output of Fixture	Dimming %	Total Adjusted Lumens
PA23T5H (Area Luminaire) / EP132S (Pole)	IES Parking Lot	38	11,241	1.00	427,158
PA23T3H (Area Luminaire) / EP112S (Pole)	IES Parking Lot	15	9,427	1.00	141,405
PA23T5H (Area Luminaire) / EP112S (Pole)	IES Parking Lot	3	11,241	1.00	33,723
PA23T5LL (Area Luminaire) / EP108S (Pole)	IES Parking Lot	2	3,747	1.00	7,494
PA23T5L (Area Luminaire) / EP108S (Pole)	IES Parking Lot	2	7,494	1.00	14,988

Total Lumens:	624,768
Total Improved Site Acres:	16.486
Total Lumens Per Improved Acre:	37,897

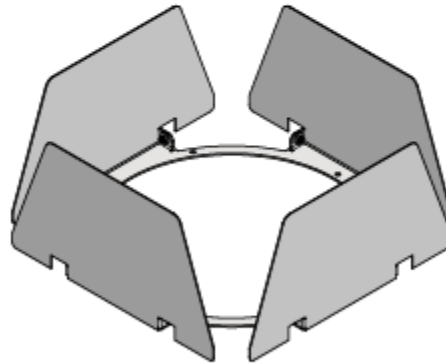
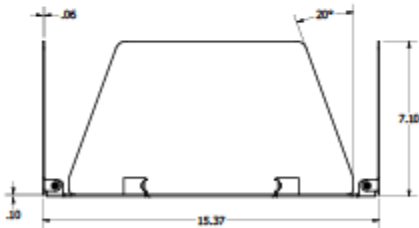
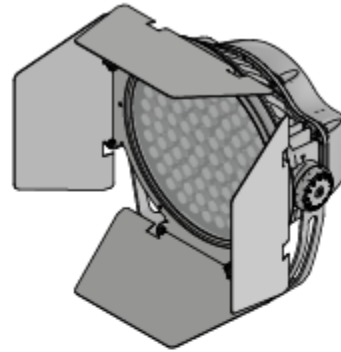
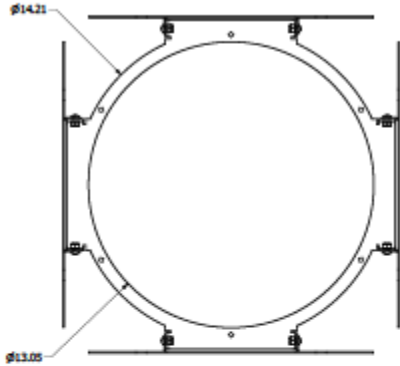
\* Calculation Summary for IES Parking Lot Lighting excludes lighting fixtures designated for Façade Lighting, IBC Egress Lighting (Section 1008), IES Recommended Walkway Lighting, and Heber City Streetlights.

IES Walkway Lighting - Lumen Summary per Improved Acre					
Fixture Type	Fixture's Purpose	Fixture Qty.	Lumen Output of Fixture	Dimming %	Total Adjusted Lumens
PA23T5LL (Area Luminaire) / EP108S (Pole)	IES Walkways	12	3,747	1.00	44,964

Total Lumens:	44,964
Total Improved Site Acres:	16.486
Total Lumens Per Improved Acre:	2,727

\* Calculation Summary for IES Parking Lot Lighting excludes lighting fixtures designated for Façade Lighting, IBC Egress Lighting (Section 1008), IES Recommended Walkway Lighting, and Heber City Streetlights.

**BARN DOOR OPTION FOR ALL FLOODLIGHT TYPES:**  
 EF0610, EF0620, EF0621, EF0622, EF1320, EF1321,  
 EF1340, EF1341, EF1342, EF1810



<small>THESE DRAWING SPECIFICATIONS ARE ON CONDITION THAT IF NOT COPIED, REPRODUCED OR          OTHERWISE USED IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF NORTH STAR LIGHTING INC.</small>			
<b>PROPERTY OF</b> NORTH STAR LIGHTING INC.		<b>CD</b>	
<b>DATE</b> 5/15/23		<b>CD</b>	
<b>DESCRIPTION</b> CAP3 BARNDOR		<b>DATE</b> 1/3	
<b>ALUMINUM</b>		<b>POWDER COAT PAINT</b>	
<b>DATE</b> 1/3		<b>DATE</b> 1/3	

WASATCH COUNTY ORDINANCE COMPLIANCE - 13.21.16: EXTERIOR LIGHTING REGULATIONS					CLAYTON FOLLOW UP REVIEW	
1.	LIGHTING STANDARDS	COMPLIANCE	RELEVANT EVIDENCE	ACTION	RECOMMENDATION	RESPONSE / ACTION TAKEN
1	Compliance with building codes: All exterior lighting luminaires installed in conformance with this section shall comply with all applicable building codes in effect at the time of installation under appropriate permitting and inspection.	See 3a. Below	See 3a. Below	See 3a. Below	See 3a. Below	
2	Full shielding required: Unless exempted in this section, all exterior lighting luminaires shall be fully shielded.	Not Compliant	Per Luminaire Schedule EL602 provided on P11 of the Lighting Design Document (Appendix 1.3) IR7B is a direct uplight that is not fully shielded by the building.	Provide alternate luminaire that is adjustable and can be aimed towards the building, with no light emitting into the sky.	Field verification of shielding shall be performed from the rooftop to measure illuminance above the parapet and photograph all the luminaires from the parapet. direct view of light source shall not be visible from above the parapet.	Compliant pending field verification Field verification required to check that all luminaires, IR7B, are oriented, directed and focused as designed.
2	Full shielding required: Unless exempted in this section, all exterior lighting luminaires shall be fully shielded.	Not Compliant	Luminaire Types EF0610, EF0620, EF0640, EF1320, EF1340, EF1360, EF1810, EF1820, EF2010 state that barn door accessories shall be provided. Barn doors are not a standard option for any of these luminaires. Catalog IR's do not included any glare control shielding accessories. Standard shielding options are not adjustable.	Provide shop drawings from manufacturer that show adjustable barn door accessories. Barn Doors shall be fixed in place with a mechanical support or reinforcement to improve the rigidity of the adjusted position to avoid being moved by strong winds.	Field verification of shielding shall be performed from the rooftop to measure illuminance above the parapet and photograph all the luminaires from the parapet. direct view of light source shall not be visible from above the parapet.	Compliant pending field verification Field verification required to check that all barn doors are installed per design.
3a	Lighting application illuminance limits: Exterior lighting required by the International Building Code (IBC) version incorporated by reference in Section 7.04.01, including but not limited to points of egress and along the path of travel for the exit discharge from each exit to the public way, shall employ luminaires that adhere to, but not exceed, the IBC-required values.  Per IBC, "Illumination shall be provided along the path of travel for the exit discharge from each exit to the public way." 1008.2.1 Illumination level under normal power - The means of egress illumination level shall be not less than 1 footcandle average at the walking surface.	More information needed. Excessive area with IBC Criteria applied.	Sheet ES020B The light levels on walkways around the building are excessive considering the context and location. More information is needed to understand the applicability of "exit discharge from each exit to the public way"	Provide diagram showing the "exit discharge from each exit to the public way"	The public way for most exits occur immediately outside the exits. Reduce lumen output of lights to meet IES Criteria. It seems that the IBC Criteria is applied to an excessive and unnecessary area.	Compliant
3b	For all other exterior lighting applications not governed by IBC requirements, excluding architectural lighting, the illuminance employed in each application shall adhere to, but not exceed, the IES-recommended minimum value for the application.  Parking Lot: IES RP-8-21 0.2 Fc Min 20:1 Max/Min (4 Fc Max for 0.2 Min) - 10:1 Avg./Min. was Deemed Acceptable.	Not Compliant	Sheets ES201A & ES201B Per Illuminance Summary table provided on Pg 3 & Pg 5 of Lighting Design Documents, Parking Lot illuminance minimums are below 0.2 Fc, and maximums are excessive, creating contrast and adaptation that may hinder visibility in the parking lot.	Change design to meet IES Parking Lot criteria.	Suggest to reduce lumen output, change to Type 4 distribution at perimeter and provide house-side shields on all luminaires around the perimeter of the parking lot.	Compliant With 10:1 Avg./Min as an acceptable variance to uniformity
3b	For all other exterior lighting applications not governed by IBC requirements, excluding architectural lighting, the illuminance employed in each application shall adhere to, but not exceed, the IES-recommended minimum value for the application.  Walkways: IES RP-43-22	Not Compliant	Sheets ES202A & ES202B Per Illuminance Summary table provided on Pg 6 of Lighting Design Documents, Walkway illuminances averaging 3 Fc - 6 Fc extremely excessive compared to the 0.4 Fc average required by IES RP-43 for L22.	Redesign lighting on walkways to 0.4 Fc average - which is the minimum required by IES RP-43 for L22. Upon review it was deemed that 1.0 Fc average is the Maximum Acceptable.		Compliant Adjacent to Architecture.
3c	With the exception of lighting exempted from regulation in subsection IV, item 23 of this section, and permanent lighting of the type described in subsection IV, item 24 of this section, the recommendation found in ANSI/IES RP-8, Table 17-2, in no case shall exterior lighting installed on any site exceed 25,000 lumens per improved acre.	Not Compliant	It seems that only the Facade Lighting, Monument Sign Lighting and Flagpole Lighting are included in the calculation for 24,813 lumens per improved acre. While the Parking Lot Lighting is excluded, the Walkway Lighting is not excluded from this requirement.	All luminaires from the Walkway Lighting not governed by IBC shall be included in the calculation for 24,813 lumens per improved acre. Walkway Lighting will need to be reduced to be less than 25,000 lumens per improved acre.	Reduce Facade & Walkway lighting luminaires to meet this requirement.	Compliant pending Modifications New Lumen Summary is compliant based on the above calculations. The luminaires of the luminaires. Should the luminaires of the luminaires be used to meet the luminaires per acre, features shall be modified (driver or otherwise) to have a maximum output of specified (dimmed) lumen levels.
4	Spectrum management: The correlated color temperature of light sources shall not exceed 3000 Kelvins.	Compliant	Per Luminaire Schedule EL602 provided on P11 of the Lighting Design Document (Appendix 1.3)	NA	NA	No Response Required.



5	Light trespass prohibited. No luminaire shall create conditions of light trespass, except as authorized by this section. Without limitation, single-family residential lots and agricultural uses are prohibited from light trespass.	Not Reviewable	There is no metric threshold to evaluate compliance of this requirement. The analysis provided describes the intent to meet this requirement and notes areas that may not meet the requirement. The height and material of the fence around the site would need to be known to understand the effectiveness of controlling light trespass.	Review the Exterior Lighting Regulations to provide a measurable threshold to be able to verify compliance with this requirement.			We cannot speak to the Reviewability of the Code; however, Sheet ES103 - SITE LIGHTING PHOTOMETRY, includes the Photometric Template from Every Luminaire on the Site, and with only a few exceptions, None of These Templates Extend Beyond the Developed Areas of The Site, and in the few instances where light is present near the edge of the property, that light is blocked/terminated by the Perimeter Wall.	<b>Compliant</b> The Site Lighting Photometry demonstrates the intent of this Light Trespass requirement is met.
6	General Curfew. All exterior lighting shall be extinguished one hour after sunset; or within one hour of close of normal business hours.	Non Compliant	No Exterior Lighting Sequence of Operations or Adaptive Controls information has been provided.	Provide Exterior Lighting Sequence of Operations and Adaptive Controls information compliant with Wasatch County code, with information on the hours of operation for the Temple.	To dim all lighting to 25% (5cd/sqm) upon close of building, turn off all lighting 1 hour after close of building. NAD Lighting Zone: L22 that borders L21, which supports the curfew to apply L21 no facade lighting after midnight.		See New Sheet EL503 - LIGHTING CONTROL SCHEDULES, for the Exterior Lighting Sequence of Operations.  See EL503 Exterior Sequence of Operations updated 9/12/2023 per follow-up review comments.	<b>Non Compliant</b> We believe there is a mistake in the Exterior Lighting Sequence of Operations on Sheet #EL503. The Site Lighting, Temple Facade/Grounds/Building Lighting, and Monument Sign all state "Features turn on: 1-hour before DAWN via astronomical timesclock." This should state, "...1-hour before DUSC..." or, "turn on via photocell..."
7	Flagpoles:							
7a	Above 20ft. AGL, may only be illuminated from above. Total light output may not exceed 800lms.	NA	NA	NA	NA		The Flagpole Uplight was replaced with Fixture Type: FD6460, Flagpole-Mounted Flag Downlight. This Fixture Attaches to the internal Halcyon on the Flagpole and Rotates with the Flag, so the light is always directed toward the Flag. It only produces 460-lumens. Set the Specification for this Fixture Type in the Lighting Fixture Schedule on Sheet EL602 for clarification. Also see the included Specification Sheet for clarification.	<b>Compliant</b>
7b	Less than 20ft. AGL, may be illuminated from below with up to 2 spot types luminaires with shields/diffusers to reduce glare, no more than 75lms/linear ft of the pole height. Light should be perpendicular only lighting the flag.	Compliant if flag pole height is 20ft	Per Luminaire Schedule EL602 provided on P11 of the Lighting Design Document (Appendix L3), Luminaire Type: RTX lumens output complies, but states "No Shielding", which does not comply.	Provide Glare Shield that is a standard option for this luminaire.	NA		Fixture Type: RTX is an In-Grade Mounted Uplight that would be installed in the Concrete Apron Around the Flagpole, so the Facade-Mounted Glare Shield Cannot be Used as it would be a Trip Hazard. For this reason we have deleted it from the Lighting Fixture Schedule and the Drawings. See Row 7a Above for information Regarding the New Flagpole Light.	<b>Compliant</b>
8	Service Station canopies	NA	NA	NA	NA			
<b>WASATCH COUNTY ORDINANCE COMPLIANCE</b>								
L	CONDITIONS FOR EXTERIOR LIGHTING FOR WALL, ARCHITECTURAL FACADES AND TREES							
1	All such lighting shall comply with the curfew requirement and light trespass prohibition specified in this section.	Non Compliant	No Exterior Lighting Sequence of Operations or Adaptive Controls information has been provided. Light Trespass cannot be evaluated, see comments on section 1.5 above.	Provide Exterior Lighting Sequence of Operations and Adaptive Controls information compliant with Wasatch County code, with information on the hours of operation for the Temple.	Curfew: See comments on Section 1.6 Above Light Trespass: See comments on Section 1.5 Above		See New Sheet EL503 - LIGHTING CONTROL SCHEDULES, for the Exterior Lighting Sequence of Operations.  See EL503 Exterior Sequence of Operations updated 9/12/2023 per follow-up review comments.	<b>Non Compliant</b> We believe there is a mistake in the Exterior Lighting Sequence of Operations on Sheet #EL503. The Site Lighting, Temple Facade/Grounds/Building Lighting, and Monument Sign all state "Features turn on: 1-hour before DAWN via astronomical timesclock." This should state, "...1-hour before DUSC..." or, "turn on via photocell..."
2	Luminaires used for uplighting of structures may be unshielded by design, provided that direct light is completely captured by architectural surfaces and not emitted directly into the night sky. In the event that an applicant wishes to illuminate surfaces in this manner, the applicant shall also provide with the lighting plan required in subsection G of this section information on the construction materials of illuminated surfaces, their colors and finishes.	Non Compliant	Per Luminaire Schedule EL602 provided on P11 of the Lighting Design Document (Appendix L3), RTX is a direct uplight that is not fully shielded by the building.	Provide alternative luminaire that is adjustable and can be aimed towards the building, with no light emitting into the sky	NA		Fixture Type: RTX is Adjustable and the light will be aimed/directed away from the building. See the Revised Specification for this Fixture Type in the Lighting Fixture Schedule on Sheet EL602 for clarification. Also see the included Specification Sheet for clarification.	<b>Compliant pending field verification</b> Field verification is required to check that all luminaires, RTXs are oriented, directed and focused as designed.
3	Luminaires used for uplighting of structures may be unshielded by design, provided that their direct light is completely captured by architectural surfaces and not emitted directly into the night sky. In the event that an applicant wishes to illuminate surfaces in this manner, the applicant shall also provide with the lighting plan required in subsection G of this section information on the construction materials of illuminated surfaces, their colors and finishes.	Non Compliant	Luminaire Types: EFR610, EFR620, EFR640, EF1320, EF1340, EF1360, EF1810, EF1820, EF2010 state that barn door accessory shall be provided. Barn doors are not a standard option for any of these luminaires. Catalog #s do not included any glare control shielding accessories. Standard shielding options are not adjustable.	Provide shop drawings from manufacturer that show adjustable barn door accessories. Barn Doors shall be fixed in place with a mechanical support or reinforcement to improve the rigidity of the adjusted position to avoid being moved by strong winds.	Field verification of shielding shall be performed from the rooftop to measure luminance above the parapet and photograph all the luminaires from the parapet. direct view of light source shall not be visible from above the parapet.		Although not listed on the Specification Sheet, Barn Doors are a Standard Accessory for these Fixture Types. See the "LIGHT SOURCE & OPTIONS / ACCESSORIES" columns for these Fixture Types on Sheet EL602 - LIGHT FIXTURE SCHEDULE, for clarification. Also see the included Specification Sheet for clarification.	<b>Compliant pending field verification</b> Field verification is required to check that all barn doors are installed per design.

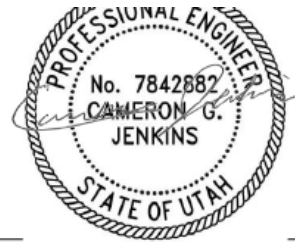
	COMPLIANCE	RELEVANT EVIDENCE	ACTION	RECOMMENDATIONS	RESPONSE / ACTION TAKEN	CLANTON FOLLOW UP REVIEW
1 East Steeple, 138 feet above ground level (AGL). Marking and lighting are not necessary for aviation safety.	Not Compliant	Per the renders and annotation provided on P8 of the Lighting Design Documents, it is shown that the East Steeple is required to be illuminated above the dotted line, which is incorrect and unnecessary. (Appendix 2.1)	The East Steeple does not require FAA required lighting of 15fc and needs to be within the regulations stipulated in the Wasatch County Ordinance, with a maximum luminaire of 27 cd/sqm. Additionally, lumens used in this area should not be exempt from the Wasatch County lumens per improved acre calculation.		The FAA Lighting Requirement is now being Met by using a Steady Red Beacon, so the Maximum Luminaire Level for the Entire Facade is 22cd/m2; however, that Level of Luminaire is rare. See Revised Sheet ES203A - TEMPLE FACADE LIGHTING PHOTOMETRY, for the Updated Photometry.	Compliant
2 West Steeple, 200 feet above ground level (AGL). This structure is to be marked/lighting with IAW FAA AC 70/7460-1M PABA 4.5 (Appendix 2.2)	Not Compliant	Per the renders and annotation provided on P8 of the Lighting Design Documents, it is shown that the West Steeple is required to be illuminated above the dotted line. Only one third of this Steeple is required to be illuminated at 15fc per FAA regulations. (Appendix 2.1)	Only the top 67ft of the East Steeple is required to be illuminated at 15fc per FAA standards. The remainder of the building/steeple, 133 ft from ground level, needs to be within regulations stipulated in the Wasatch County Ordinance, with a maximum of 27 cd/sqm. Additionally, lumens used in this area should not be exempt from the Wasatch County lumens per improved acre calculation.	We recommend the use of red obstruction lighting to fulfill the FAA requirement, especially after curfew instead of lighting at 15fc. The 15 fc requirement for FAA may result in over 300 cd/m2 luminaire (based on a 0.65 surface reflectance). This is equivalent to the brightness of digital signage used in larger city downtown areas. We are very concerned that this luminaire level remaining on all night is not appropriate for this small town and village. We are recommending for this small town and village to use Marker Light on West Tower Steeple for post-curfew use.	The FAA Lighting Requirement is now being Met by using a Steady Red Beacon, so the Maximum Luminaire Level for the Entire Facade is 22cd/m2; however, that Level of Luminaire is rare. See Revised Sheet ES203A - TEMPLE FACADE LIGHTING PHOTOMETRY, for the Updated Photometry.	Compliant

4 The luminance of architectural surfaces shall not exceed 27 candelas per square meter. Luminance of a surface shall be measured in a line of sight direction to the observer at an angle perpendicular to the surface being measured. The final measurement shall be the median value of three (3) measurements. A margin of error not to exceed twenty (20) degrees from perpendicular viewing angle is acceptable for purposes of measurement. The device used to measure the luminance shall have a margin of error of not more than ten (10) percent. Measurements associated with enforcement actions may only be taken by the planning director or his designee. Measurements shall be taken at a distance of not less than ten (10) feet from the surface, to avoid anomalies due to polished, reflective or irregular materials.	Non Compliant	East Steeple is not exempt from Wasatch County Ordinance as FAA does not require marking and lighting on this structure. Areas on the east Steeple exceed 27 cd/sqm which is non compliant. Similarly, in the lower West facade/steeple up to 133ft, should not exceed 27 cd/sqm. (Appendix 1.5)	Reduce the luminance levels to below 27cd/sqm on East Steeple and in the lower facade up to 133ft.	Reduce the luminance levels further than 27 cd/sqm, which is provided as a maximum. The max luminance of 27cd/m2 is below the allowable MLO L22, but does not seem appropriate to illuminate the entire facade to this level. Both from an environmental perspective and an aesthetic perspective, providing focus areas with an accent of 27cd/m2 with most of the facade at a lower 5cd/m2 would reduce impact and create more visual interest.	The FAA Lighting Requirement is now being Met by using a Steady Red Beacon, so the Maximum Luminaire Level for the Entire Facade is 22cd/m2; however, that Level of Luminaire is rare. See Revised Sheet ES203A - TEMPLE FACADE LIGHTING PHOTOMETRY, for the Updated Photometry.	Compliant
5 Luminaires used for uplighting of trees or other landscaping elements may be unshielded by design provided that their direct light is mostly captured by trees or landscaping and not emitted into the sky. The applicant shall provide a plan to illuminate trees or landscaping in this manner. The applicant shall also provide with the lighting plan required in subsection G of this section. Information on the height of the trees or landscaping. The luminaires used for the uplighting of trees or other landscaping elements shall not exceed 10 lumens per vertical foot of the trees or landscaping, and may not exceed 1,000 lumens per improved acre. This limit does not create an additional allowance beyond the site lumen threshold stated in subsection I, item 3c of this section.	NA	NA	NA	NA	No Response Required.	NA

## EXHIBIT N – No rise certification study



# MEMORANDUM



**Date:** September 7, 2023  
**To:** Core Architecture  
**From:** Cameron Jenkins PE, CFM  
**Project:** Heber Temple  
**Subject:** No-Rise Certification  
**Project #:** 799-23-02

9-07-2023

## INTRODUCTION AND BACKGROUND

CORE Architecture contracted with Bowen Collins & Associates (BC&A) to prepare a no-rise certification for the proposed Heber Valley Temple site. The Heber Valley Temple site is located adjacent to North Lake Creek at approximately 1474 East Center Street in Heber, Utah as shown on Figure 1.

A part of the project involves improving existing trails, a new storm drain outfall into North Lake creek, connections to a sewer, and a new water line crossing North Lake Creek; all which are within a FEMA Special Flood Hazard Area Zone (SFHA) AE with Floodway. When working in Floodway's, you are required to either obtain a no-rise certification or submit a Conditional Letter of Map Revision (CLOMR) before any work can be completed. A Letter of Map Revision (LOMR) should be obtained from FEMA within six months after construction is completed. Also, before any construction activity can be started in a FEMA SFHA, a Floodplain Development Permit must be obtained. A no-rise certification shows that any work inside of the Floodway does not cause an increase of water surface elevation based on existing conditions. This letter provides the no-rise certification for the five construction activities (see sections below): trail improvements, storm drain outfall, sewer connection, waterline connection, and dewatering under the Temple footprint. The design drawings for each improvement are attached to this letter.

## TRAIL IMPROVEMENTS

There is an existing earthen trail that follows along the Humbug Canal and crosses over North Lake Creek and through the floodway near the project site. As part of the Heber Valley Temple project, the improvements to the trail inside the floodway include removing part of the top of the trail and replacing it with asphalt as shown in Figure 2. The proposed asphalt finished grade elevations will match the existing grade elevation and similar roughness values as the existing trail. The proposed trail improvements will have minimal impact on the riverine hydraulics and will not cause any increase in water surface elevation and a no-rise certification can be obtained.

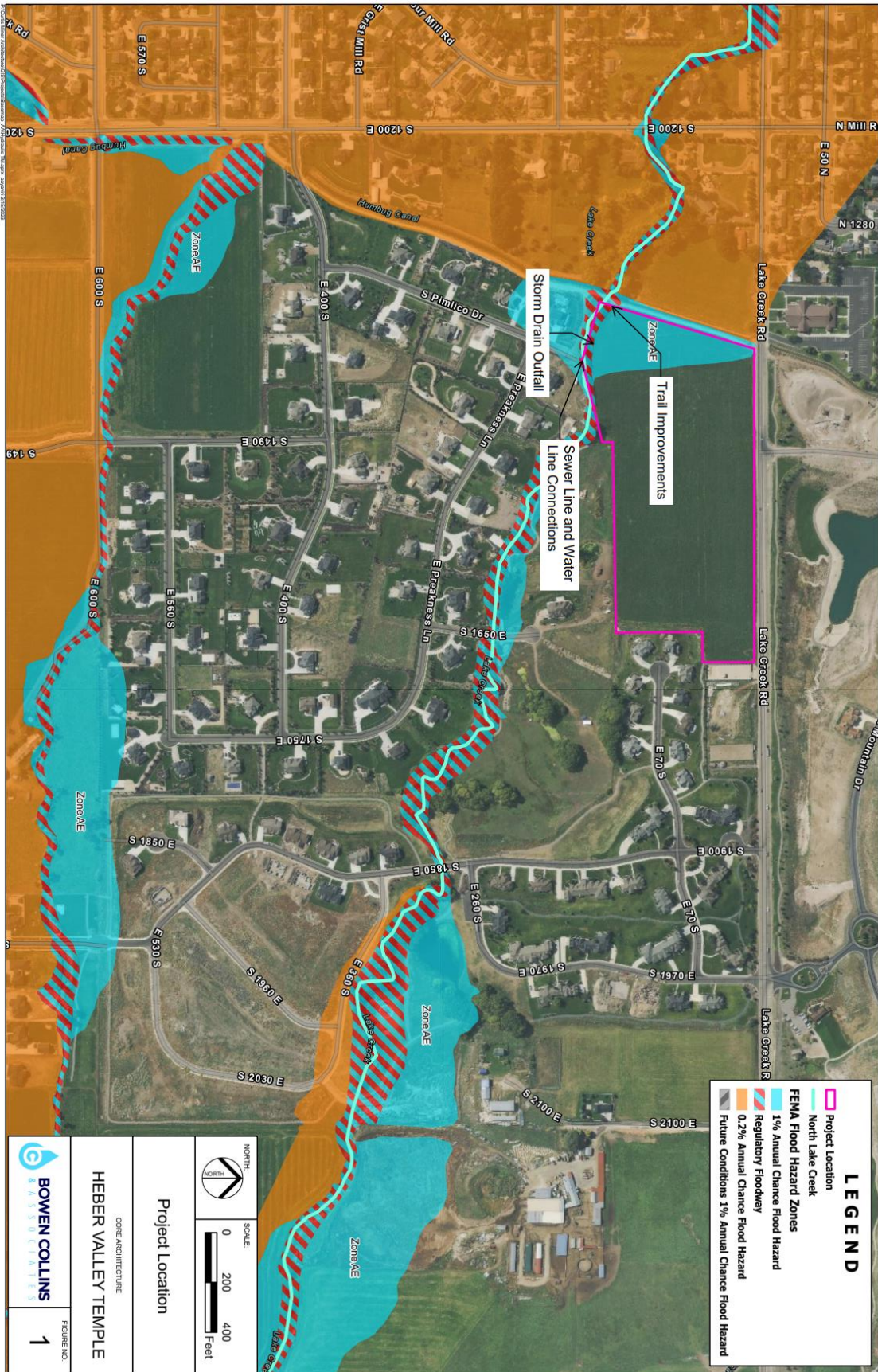
## STORMDRAIN OUTFALL

As part of the project, a new storm drain outfall will be constructed along the right bank inside of the North Lake Creek Floodway as shown in Figure 3. The project will include excavating in the floodway to install the storm drain pipe and outlet. Fill and riprap will also be placed as part of the project. The finish grade of the fill and riprap will match the pre-construction. The effective FEMA HEC-RAS model has a channel roughness value in the vicinity of the storm drain outfall of 0.06 which is higher than a 0.045 value for riprap. Revising the roughness to 0.045 value would either reduce the water surface elevation or keep it the same as the area is small. Based on this information a no-rise certification can be obtained.

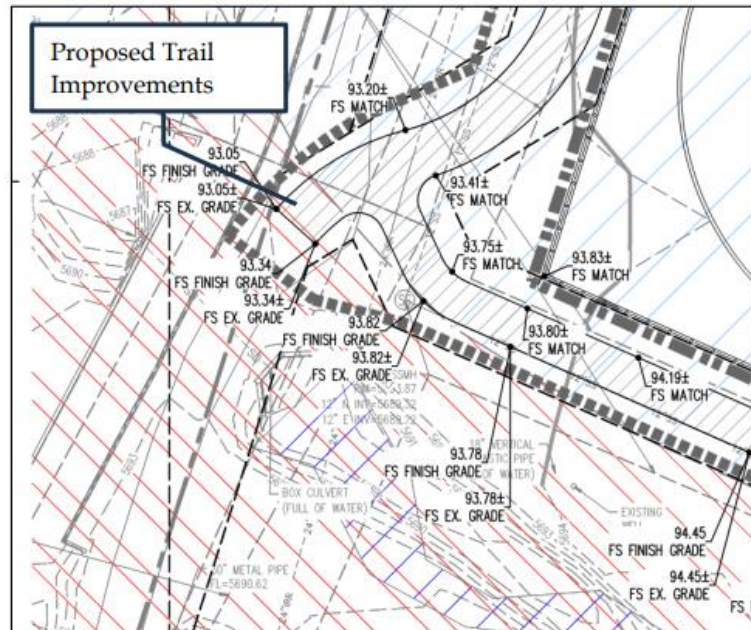
Bowen Collins and Associates  
Core Architecture

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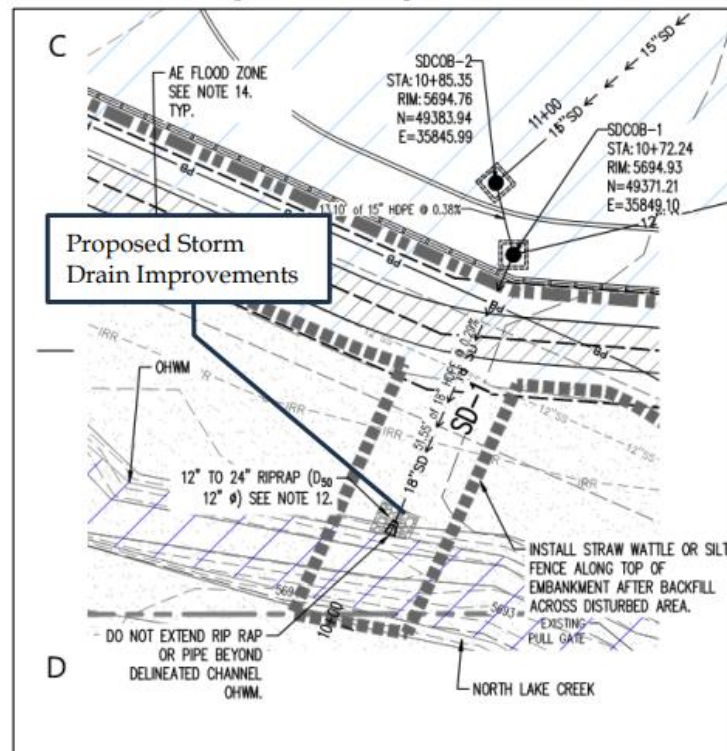








**Figure 2 Trail Improvements**



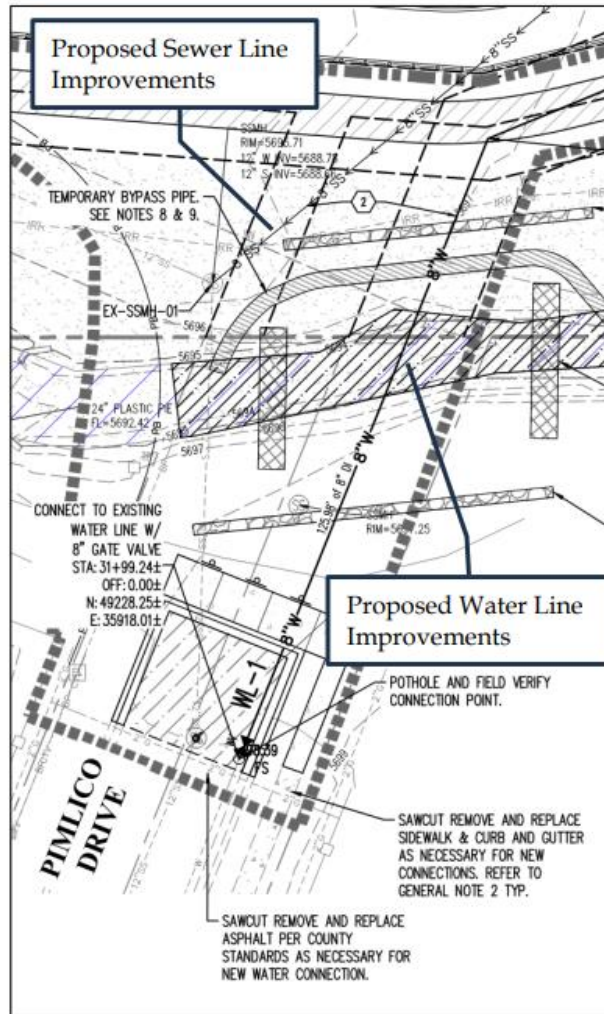
**Figure 3 Storm Drain Improvements**

## SEWER CONNECTION

There is an existing sewer line in the floodway that the project will be connecting into as shown in Figure 4. The project will excavate in the floodway, install the pipe, and restore the finish grade to the pre-constructing grade and existing conditions. The proposed sewer connection will have no impact on the riverine hydraulics, would not cause any increase in water surface elevation, and a no-rise certification can be obtained.

## WATERLINE CONNECTION

There is an existing waterline on the south side of North Lake Creek that the project will be connecting into by crossing the creek and Floodway as shown in Figure 4. The project will excavate in the floodway, install the pipe, and restore the finish grade to the pre-constructing grade and existing conditions. The proposed waterline connection will have no impact on the riverine hydraulics, would not cause any increase in water surface elevation, and a no-rise certification can be obtained.



**Figure 4 Sewer Line and Water Line Improvements**

**DEWATERING UNDER TEMPLE FOOTPRINT**

Due to the shallow groundwater and final subsurface elevation of the temple, long-term dewatering will be required (see the BC&A Heber Temple Dewatering Investigation Report (March 2023)). Groundwater is present about 10 to 15 feet below ground surface (bgs) at the site. These shallow groundwater conditions present challenges for dewatering and construction activities for the construction of the new Temple building. These shallow groundwater conditions will require both short term construction dewatering and long-term dewatering due to the subsurface elevation of the temple. The results of the investigation indicated there is up to 800 gpm (1.78 cfs) needed for the short-term dewatering and up to 250gpm (0.56 cfs) for the long-term dewatering. These numbers represent the max expected dewatering rates listed the Dewatering Investigation Report (March 2023) with the minimum values much lower.

The current effective FEMA discharge is 530 cfs and an increase of 1.78 cfs (short term) is approximately only a 0.34% over the current effective discharge and will cause no to negligible increase in water surface elevation (rounds to zero). The long term dewatering would cause an even less impact on water surface elevation. This also assumes that there is dewatering occurring which may not always be the case.

**NO-RISE CERTIFICATION**

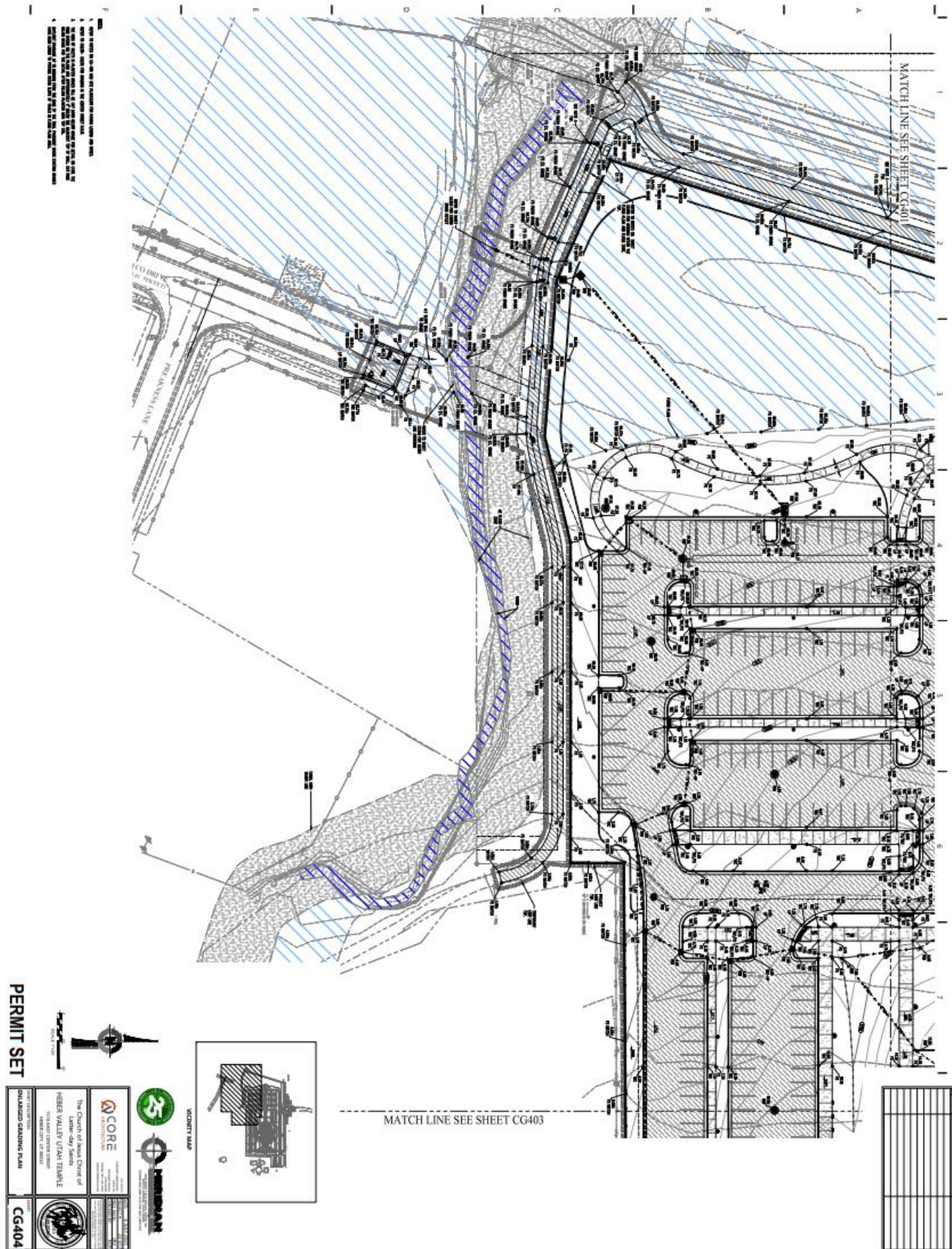
This letter is to certify that I am duly qualified engineer licensed to practice in the State of Utah. It is to further certify that the technical data above supports the fact that proposed Heber Temple project work inside of the floodway will not impact the base flood elevations, floodway elevations, and floodway widths on North Lake Creek at published cross sections in the Flood Insurance Study for Wasatch County, dated March 15, 2012 and will not impact the base flood elevations, floodway elevations, and floodway widths at the unpublished cross-sections in the proposed development.

Sincerely,



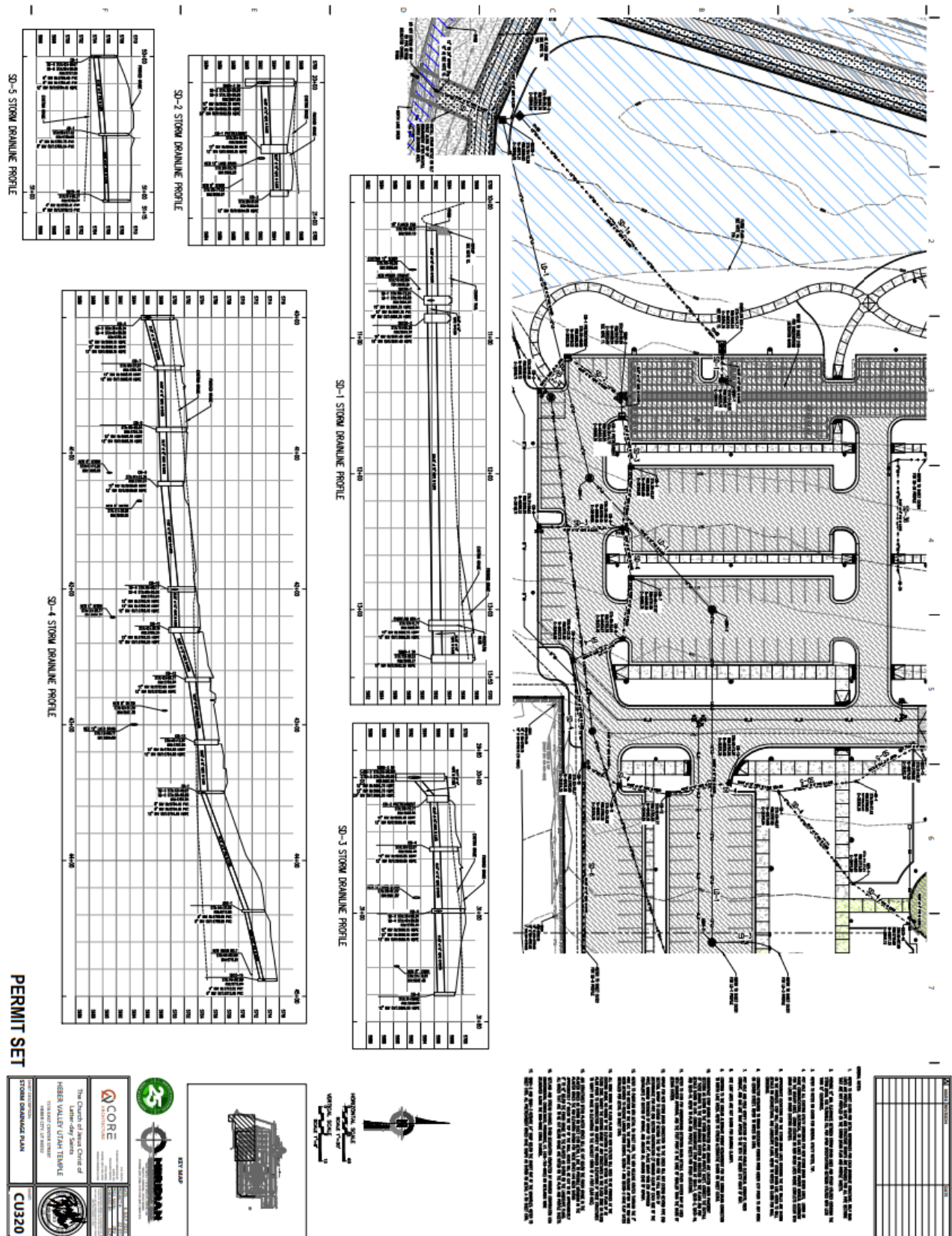
Cameron Jenkins, P.E., CFM  
Bowen Collins & Associates









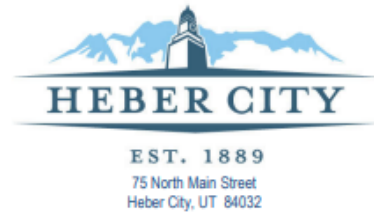






**EXHIBIT O- Heber City traffic review letter**

October 16, 2023



Mr. Doug Smith  
Wasatch County Planning  
35 South 500 East  
Heber City, Utah 84032

**SUBJECT: LDS Temple Project  
Heber City - Traffic Impact Study Review**

Doug,

Per your request I am providing this letter outlining the Traffic Impact Study (TIS) requirements Heber City requested for the Temple Project, our review of the TIS, and a brief summary of the TIS Findings.

Heber City requested a TIS meeting UDOT Level 3 requirements or meeting UDOT Level 2 requirements with a 20-year Projection. We also requested that the study specifically analyze the following intersections/locations:

- 1) Main Street & 100 South
- 2) Main Street & Center Street
- 3) Center Street & Mill Road
- 4) Center Street & 2400 East
- 5) Mill Road & 1200 South
- 6) Mill Road & 600 South
- 7) Temple West Entrance (Center Street & Heritage Farms Parkway/East Bypass)
- 8) Temple East Entrance (Center Street)

A term used to describe the operating performance of an intersection or street is Level of Service (LOS). A LOS scale typically ranges from A, being the best, to F, representing failure or significant delays. Heber City's LOS standard is C.

The TIS included a Level of Service (LOS) analysis evaluating the intersections/locations listed above using the following scenarios:

- a) Existing/Background Conditions
- b) Project Conditions
- c) Future 2027 Background Conditions
- d) Future 2027 Plus Project Conditions
- e) Future 2042 Background Conditions
- f) Future 2042 Plus Project Conditions

**West Entrance Roundabout**

Before outlining the findings of the TIS further, I want to point out that a Preliminary Traffic Study submitted originally by the Applicant indicated that a LOS F was expected at the Temple



West Entrance location. During an initial Development Review Meeting held with the County, the Applicant, Heber City, and others, I requested that the Applicant consider installing a roundabout at that location to mitigate the concern. The Applicant agreed to this request and included the roundabout in future iterations of the TIS. With the mitigation of the roundabout installation, the TIS indicates that a LOS of A is anticipated at the West Entrance location in all of the future scenarios.

### **Background Conditions**

The Existing/Background Conditions scenario indicated that all of the intersections currently operate at an acceptable LOS with the exception of Mill Road & 600 South, which operates at a LOS F for a short time in the AM peak associated with the morning school rush. However, the report also indicates that this issue can be mitigated by installing a 4-way stop at that location, which has recently been completed by the City.

With the 4-way stop mitigation at Mill Road and 600 South, the TIS indicates the following with regard to Background Traffic (No Project).

- 2027 – No Deficiencies
- 2042 – Deficiencies
  - Mill Rd & Center – LOS F
  - Mill Rd & 600 South – LOS F
  - Mill Rd & 1200 South – LOS F

### **Plus Project Conditions**

The “Plus Project” scenarios were evaluated first without mitigation measures, and then again with recommended mitigation measures implemented. The LOS indicated below are without mitigation. However, with the recommended mitigation measures, each intersection can be brought within acceptable LOS.

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• 2027 – Deficiencies               <ul style="list-style-type: none"> <li>▪ Mill Rd &amp; Center – LOS E</li> <li>▪ Mill Rd &amp; 600 South – LOS F</li> </ul> </li> <li>• 2042 – Deficiencies               <ul style="list-style-type: none"> <li>▪ Mill Rd &amp; Center – LOS F</li> <li>▪ Mill Rd &amp; 600 South – LOS F</li> <li>▪ Mill Rd &amp; 1200 South – LOS F</li> </ul> </li> </ul> | <b>Recommended Mitigation</b> <ul style="list-style-type: none"> <li>- Signal</li> <li>- 4-Way Stop (already installed)</li> <li>- Signal</li> <li>- Roundabout</li> <li>- Signal</li> </ul> |
|--|--|

### **Position Relating to TIS Findings**

As you can see, each of the intersections with future deficiencies will be deficient by 2042 with or without the Temple Project. Impacts from the project will speed up the need for mitigation measures at these intersections, but the City has already included or is including projects in our Streets Master Plan to address these deficiencies. The City may or may not chose the same future mitigation measure recommended by the Temple TIS.

The typical method for addressing deficiencies caused by general growth is to assess impact fees to all new projects contributing to the need for future improvements. For this specific situation, the Temple Project is located in the County, impacting the City’s ability to charge impact fees for this project. In addition, the projected cost of the roundabout to be fully funded by the Church, exceeds the amount that the City would have charged the Applicant for Impact Fees if it

were a typical project located within the City. Because of these reasons, the City's legal counsel recommended that the City not pursue any additional impact fees related to the project.

### **Projected Trips**

The TIS indicates that the project will generate approximately 2,014 additional daily trips with AM and PM peaks of 172-173 trips per hour. For reference, this amount of daily trips is generally equivalent to a development of around 200 homes.

In addition, Temples typically don't generate the significant AM and PM peaks that are associated with other large projects such as schools. The daily trips associated with Temples are more evenly distributed throughout the day during operating hours.

### **Conclusion**

In addition to reviewing the TIS in-house, Heber City also sent it out to be reviewed by Horrocks Engineer's Traffic Engineering Team. The reviews resulted in minor comments which have been addressed by the applicant through the re-submittal and review process. Based on the review, the TIS appears to meet or exceed industry standards for these types of studies and is considered acceptable by Heber City.

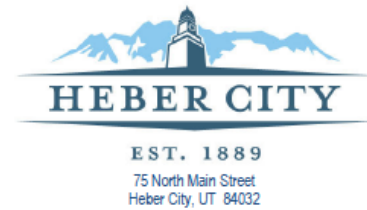
Respectfully,



Russell Funk  
Heber City Engineer

cc: Kurt Mather, CORE Architecture  
Jason Sandburg, CORE Architecture  
Trulan Preece, Church of Jesus Christ of Latter Day Saints

July 6, 2023



Mr. Doug Smith  
Wasatch County Planning  
35 South 500 East  
Heber City, Utah 84032

**SUBJECT: LDS Temple Project  
Heber City Review / Requirements**

Doug,

The applicant for the LDS Temple Project has requested a letter be sent from Heber City to Wasatch County outlining our requirements for project approval and indicating the current status of our review.

This is a unique project for the City where the actual site is located in Wasatch County, but the project will front and require widening and improvements to a Heber City road (Center Street). As such, the appropriate process for the approval is a Roadway Dedication Plat, which is a staff level approval, with no formal approval required from the Planning Commission or City Council.

The application package required by the City for this project included the following:

- Geotechnical Report
- Storm Water / Drainage Report
- Traffic Impact Study
- Boundary Survey
- Road Dedication Plat
- Construction Drawings
- Draft Land Use MOU (Parties – Heber City, Wasatch County, LDS Church)

We are currently in the application review process, but have already completed at least one full round of reviews on all of the submitted documents. We provided our most recent round of comments back to the applicant on June 14<sup>th</sup> and are currently waiting on a re-submission.

At this point comments are relatively minor and addressing them is not anticipated to require significant changes to the general design or the anticipated land dedication required for the roadway. Once all of our comments have been addressed, we anticipate approving the application subject to final approval of the proposed Land Use MOU by the Wasatch County and Heber City Councils.

Once final approval is granted, Heber City will require the applicant to follow our standard construction process, which will include completing a standard Performance Agreement with the City, providing an assurance bond (cash or letter of credit) for the full amount of construction of

all public infrastructure, providing an inspection deposit/fees to cover inspection of the improvements, and to comply with our inspection, acceptance, and warranty processes.

Please let me know if you have any specific questions that I haven't answered. You can reach me at (435) 657-7929.

Respectfully,

A handwritten signature in blue ink that reads "Russell Funk". The signature is fluid and cursive, with the first name "Russell" being more prominent than the last name "Funk".

Russell Funk  
Heber City Engineer

cc: Jason Sandburg, CORE Architecture  
Trulan Preece, Church of Jesus Christ of Latter Day Saints



## EXHIBIT P – DRC report



### Wasatch County DESIGN REVIEW COMMITTEE (DRC) COMMENTS

PROJECT ID: DEV-7924  
PROJECT NAME: FINAL SITE - HEBER VALLEY UTAH TEMPLE  
VESTING DATE: 5/19/2023  
REVIEW CYCLE #: 5

## REVIEW CYCLE STATUS: READY FOR DECISION

Project comments have been collected from reviewers for the above noted review cycle and compiled for your reference below. Please review the comments and provide revised plans/documents if necessary. **Resubmittals must include a plan review response letter** outlining where requested changes and corrections can be found. Failure to provide such a letter will result in the project being returned to you.

**When uploading revisions please name your documents exactly the same as it was previously uploaded.**

**Revision numbers and dates are automatically tracked. There is no need to re-upload documents that aren't being changed. DO NOT DELETE documents and then upload new ones.**

Once you have addressed all of your items and successfully uploaded your revisions, be sure to re-submit your project for review. Resubmittal must be made through the portal in order to receive official review. Projects requiring Planning Commission approvals or recommendations will not be placed on a planning commission agenda until all DRC reviewers have recommended the item to move forward.

Entity	Decision
Sheriff's Office	Ready for Decision
Building Department	Ready for Decision
GIS Department	Ready for Decision
Weed Department	Ready for Decision
County Surveyor	Ready for Decision
Fire SSD	Ready for Decision
Health Department	Ready for Decision
Environmental Quality	Ready for Decision
Manager's office	Ready for Decision
Assessor's Office	No Action Taken
Engineering Department	Ready for Decision
DRC - SSA 1 Water	Ready for Decision
Planning Department	Ready for Decision
DRC - Twin Creeks SSD	Ready for Decision
Recorder's Office	Ready for Decision
MAG Regional Trail Planner	Ready for Decision
Public Works Department	No Action Taken

**Approved** = Reviewing entity has approved the project under consideration of their applicable codes. Any open comments are considered conditions of the entities recommendation.

**Ready for Decision** = Reviewing entity recommends the project move forward to a Planning Commission meeting (if applicable). Any open comments are considered conditions of the entities recommendation.

**Changes Required** = Reviewing entity has identified an issue(s) that needs to be resolved before recommending the project move forward.

**No Action** = Reviewing entity has not taken any action for the review cycle.

## OVERALL PROJECT COMMENTS

DRC Project Comments		
Comment ID	Entity	Comment
C-PLN-App-22	PLN - County Planning Approval	The letter from Heber City regarding the road improvements is not a final letter. The letter is still in the review process. It would be nice to have the final letter stating that the roads have been approved.
DRC-JSSD2	DRC - Jordanelle SSD	Construction drawing plan review to be coordinated and completed with District Engineer.

## PROJECT DOCUMENT SHEET COMMENTS BY REVIEWING ENTITY

DRC - Engineering Dept		
Comment ID	Sheet Name	Comment
DRC-ENG31	Other a - Dewatering Study	Condition of Approval: Provide verification that the dewatering system discharge quantities are at or below expected levels at 45 days after system completion and before final site approval.
DRC-ENG33	09 - Geotechnical Report	Condition of Approval: For approval of the subdivision construction permit, present an updated report which corrects; 1. The site class per AGEC Comment 4 in their 09/29/2023 review letter, 2. Contains a stamp by a Utah Licensed Geologist (this was included in previous versions of the letter), 3. Along with any other corrections which need to be made.

DRC - GIS Dept		
Comment ID	Sheet Name	Comment
DRC-GIS1	04 - Site Plan	This structure will need an address. I have assigned it an address. I will have this address added to the county tax system and our 911 data. Work with me if if you have any questions.  New Address: 1516 E CENTER ST  Ivan Spencer ispencer@wasatch.utah.gov

EXT – MAG Regional Trail Planner		
Comment ID	Sheet Name	Comment
DRC-MAG1	02a - Plat	Conditional approval. Per County code the trails should connect to the adjacent properties trails, specifically on Pimlico Drive.

**EXHIBIT Q – Fiscal Review by Attorney and Clerk**



**WASATCH COUNTY ATTORNEY**

805 West 100 South  
Heber City, Utah 84032  
Telephone (435)654-2909  
Facsimile (435) 654-2947

SCOTT H SWEAT  
COUNTY ATTORNEY

MCKAY G KING  
S. CASE WADE  
JON WOODARD  
MICHAEL A. SNELL  
SHELBY M. THURGOOD  
ALEX D. STOEDTER

September 15, 2023

To Whom It May Concern;

In conjunction with the application for the Heber Valley Temple project by Core Architecture, for the Church of Jesus Christ of Latter Day Saints, the applicant has requested the County consider an ordinance adopting a development agreement for the project. I have conducted a review of the legal implication of the proposed ordinance submitted on September 11, 2023, and the proposed development agreement submitted with it. I have no legal objections to these documents and do not find any material issues that would prevent me from approving them as to form, as drafted.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Woodard", is written over a horizontal line. Below the signature, the name "Jon Woodard" and title "Deputy County Attorney" are printed.

Jon Woodard  
Deputy County Attorney

COUNTY MANAGER  
Dustin A. Grabau



COUNTY COUNCIL

Luke Searle  
Steve Farrell  
Erik Rowland  
Kendall Crittenden  
Mark Nelson  
Karl McMillan  
Spencer Park

The Office of the Wasatch County Clerk/Auditor received an "Application for the Adoption of an Ordinance Approving Development Agreement for Heber Valley Temple Site" date stamped 9-11-2023 at 2:56 pm MST.

The Wasatch County Auditor has conducted an unbiased, good-faith fiscal review of the proposed ordinance. In doing so, the Auditor analyzed several factors that may affect the estimated cost of implementing the proposed ordinance. Below is an overview of the factors that were considered and a written recommendation regarding the fiscal implications of the proposed ordinance. The parameters of the fiscal review were limited to analyzing the cost of implementing the proposed ordinance. External, economic, community, and/or other potential impacts are outside the scope of the review.

In conducting the fiscal review, all of the following were considered:

1. Whether the proposed ordinance would impose a fiscal impact on the county's payroll and benefits costs.
2. Whether the proposed ordinance would impose a fiscal impact on taxes or impose a new tax.
3. Whether the proposed ordinance would impact tax rates financially.
4. Whether the proposed ordinance would impose a fiscal impact on the issuance or change in bond status, notes, or other debt instruments.
5. Whether the proposed ordinance would impose a fiscal impact on the cost or savings to local government entities.
6. Whether the proposed ordinance would increase costs to the County.

The Wasatch County Auditor estimates that implementing the proposed ordinance would have no significant fiscal impact on the County and would not result in an increase or decrease in taxes or debt. The Wasatch County Clerk/Auditor asks the Planning Department to relay this information to the County Legislative Body with its staff report on the proposed ordinance.

Respectfully submitted this 19th day of September 2023.

A handwritten signature in blue ink that reads "Joey D. Granger".

~ Joey D Granger, Wasatch County Clerk/Auditor



ASSESSOR Todd Griffin	ATTORNEY Scott Sweat	CLERK/AUDITOR Joey D Granger	RECORDER Marcy Murray	SHERIFF Jared Rigby	SURVEYOR James Kaiserman	TREASURER Diane G Burgener	JUSTICE COURT JUDGE Brook Sessions
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25 North Main • Heber City, Utah 84032 • (435) 654-3211 • [www.wasatch.utah.gov](http://www.wasatch.utah.gov)



## EXHIBIT R – Heber City MOU

[NOTE TO COUNTY: THIS INITIAL DRAFT IS BEING SUBMITTED BY THE CHURCH OF JESUS-CHRIST OF LATTER-DAY SAINTS IN CONNECTION WITH AN APPLICATION FOR A TEMPLE SITE IN WASATCH COUNTY. THE CHURCH ANTICIPATES THAT THE PARTIES WILL EDIT AND REVISE THIS DRAFT AS THE COUNTY'S DESIGN REVIEW PROCESS PROCEEDS.]

### MEMORANDUM OF UNDERSTANDING

#### **(Maintenance of a Portion of Center Street)**

This *Memorandum of Understanding* (“MOU”) is made by and among Wasatch County, a political subdivision of the State of Utah (“County”), Heber City, a political subdivision of the State of Utah (“City”), and the Church of Jesus Christ of Latter-day Saints, a Utah corporation sole (“Owner”), effective as of the date signed by all parties, as evidenced on the signature page(s) hereto (“Effective Date”). The County, City, and Owner are each a “party” to this MOU, collectively they are the “parties” hereto.

#### **RECITALS**

**A.** Owner holds title to certain parcels of real property located in Wasatch County, Utah, commonly known as Wasatch County Parcel Nos. 08-9990 and 12-1884 (collectively, the “Property”).

**B.** The Property comprises approximately 17.23 acres of land and is adjacent to, and to the south of, Center Street. Owner proposes to develop the Property as a site for religious worship. A site plan for the intended project (“Site Plan”) is attached hereto as Exhibit A.

**C.** The Property is within the unincorporated portion of Wasatch County. The portion of Center Street which is adjacent to the Property (“Designated Street Segment”) is largely within the municipal boundaries of Heber City. However, a portion of the right of way for the Designated Street Segment will remain within the unincorporated portion of Wasatch County.

**C.D.** Owner has applied to the County for a Site Plan and a final subdivision application for a Small-Scale Subdivision for the Temple Project (“County Applications”), and all rights and obligations in this MOU are conditioned upon County approval of the final subdivision approval and site plan approval.

**D.E.** Because the Designated Street Segment will lie within two different jurisdictions, in this MOU, the parties wish to set forth their respective obligations relating to the improvement and maintenance of the Designated Street Segment.

#### **AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the parties agree as follows:

1. Recitals Incorporated. The foregoing Recitals are incorporated into, and made part of, the parties agreement.

2. Dedication of Right of Way. Owner will dedicate a portion of the right of way for the Designated Street Segment to the public. Even though such portion of the right of way is located in unincorporated Wasatch County, Owner will dedicate the right of way to the City and the City will accept such dedication.

3. Parties' Construction Obligations.

3.1. New Collector Street. A new collector street ("**New Collector Street**") is anticipated to be constructed going north from Center Street on the north side of the Property and east of the Humbug Canal. With the exception of the Roundabout and connection of the Roundabout into said New Collector Street, Owner will not be responsible for construction or costs associated with the New Collector Street.

3.2. Roundabout. The parties agree that a traffic roundabout ("**Roundabout**") will be installed as a traffic control device at the intersection of the New Collector Street and Center Street pursuant to standards and a final design to be approved by the City. Owner will be solely responsible for design, construction and all related costs of the Roundabout.

3.3. Right of Way Improvements. The Owner will be solely responsible for installing the street, gutter, and other right of way improvements on the south side of the Designated Street Segment, including, pavement, curb, gutter, sidewalk, and other improvements beyond the back of curb consistent with the Site Plan. Improvements within the traffic right of way will be installed pursuant to standards set by the City. Other improvements will be installed pursuant to applicable standards imposed by the County. Owner shall have no responsibility to install any improvements on the north side of the Designated Street Segment with the exception of those required for the Roundabout including surface restoration.

3.4. Lighting. Owner will install all street lighting for the Designated Street Segment which will include (south side only): two streetlights on the Roundabout (one on the northeast and one on the southwest); one streetlight at the west side of the east entrance to the Property; and three other streetlights along the frontage of the Property according to the Heber City Standards. All streetlights on the Property will comply with the County's recently-adopted Exterior Lighting Ordinance (Ordinance No. 23-01).

3.5. Pedestrian Trail. As shown on the Site Plan, Owner will install a perimeter trail ("**Trail**") on the exterior of the Property adjacent to the Designated Street Segment. Owner may elect to install light bollards on the Trail consistent with applicable standards imposed by the County.

4. Parties' Maintenance Obligations.



4.1. City's Obligation. The City hereby accepts the obligation to maintain the right of way improvements for the Designated Street Segment to the back of curb. The City shall also maintain all streetlights within the Designated Street Segment built according to Heber Standards.

4.2. Owner's Obligation. Owner hereby accepts the obligation to maintain all right of way improvements (except street lighting) beyond the back of curb consistent with applicable standards imposed by the County. The Owner will maintain the Trail and any light bollards consistent with applicable standards imposed by the County.

5. Term of MOU. The term of this MOU will be twenty-five (25) years after the Effective Date, unless previously terminated by the joint agreement of all parties. This MOU may be recorded with any final plat for the Property. The maintenance requirements of the Owner are intended to run with the land, and shall remain for the life of the project approved with the County Applications, unless the County or another governmental entity assumes those maintenance obligations in writing.

6. Approvals. Each party represents and warrants to the other parties that the representing party has received all approvals necessary to execute this MOU and perform hereunder. Owner has applied for the County Applications, and all rights and obligations in this MOU are conditioned upon County approval of the County Applications, and the recording of the associated final plat. County may execute the MOU prior to approval or denial of the County Applications.

7. Default and Remedies. No party will be deemed in default under this MOU unless the defaulting party is given written notice and the alleged default remains uncured for a period of thirty (30) days after such party's receipt of written notice. The parties will be entitled to pursue any remedy available at law or in equity with respect to a breach of this Agreement; provided, however, that no party will be liable for any indirect, consequential, or exemplary damages.

8. No Personal Obligations. No employee, officer, official, representative, elected officer, or agent will be personally liable for the obligations and duties of any party to this MOU.

9. Notices. Any notice required or permitted hereunder must be given in writing via personal delivery, overnight delivery by a national carrier, or certified U.S. Mail. The parties' addresses for notice are set forth on the signature page(s) to this MOU. Any party may change its address for notice by giving written notice of the change in the manner provided herein.

10. No Assignment. The parties' rights and obligations under this MOU may not be assigned or transferred without the consent of the other parties to this MOU.

11. Miscellaneous. This MOU is for the benefit of the parties hereto only. No third-parties are intended as beneficiaries or parties with rights hereunder. This MOU may be executed in

counterparts. This MOU represents the entire agreement of the parties with respect to the subject matter of this MOU. This MOU may be amended only in a written instrument signed by all parties. This MOU is governed by the laws of the State of Utah. In the event of any action to interpret or enforce this MOU, the parties consent to the jurisdiction courts situated in Wasatch County, Utah.

*[End of MOU. Signature Page(s) Follow:]*



**EXHIBIT S – Legislative Development Agreement**

**[NOTE TO COUNTY: THIS INITIAL DRAFT IS BEING SUBMITTED BY THE  
CHURCH OF JESUS-CHRIST OF LATTER-DAY SAINTS IN CONNECTION WITH AN  
APPLICATION FOR A TEMPLE SITE IN WASATCH COUNTY. THE CHURCH  
ANTICIPATES THAT THE PARTIES WILL EDIT AND REVISE THIS DRAFT AS  
THE COUNTY’S DESIGN REVIEW PROCESS PROCEEDS.]  
SEPTEMBER 5, 2023 REVISION**

When Recorded Return To:

THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS  
Attn: David A. Channer, Assoc. General Counsel  
50 E. North Temple Street, Room 288W  
Salt Lake City, Utah 84150-0302

KIRTON | McCONKIE  
Attn: Loyal C. Hulme and Daniel C. Dansie  
50 E. South Temple Street, Suite 400  
Salt Lake City, Utah 84111

**DEVELOPMENT AGREEMENT FOR THE  
HEBER VALLEY UTAH TEMPLE**

This DEVELOPMENT AGREEMENT FOR HEBER VALLEY UTAH TEMPLE (“**Agreement**”) is entered into as of this [\_\_\_\_\_] day of [\_\_\_\_], 2023, by and between THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole (“**Owner**”, further defined below), and WASATCH COUNTY (“**County**,” further defined below), a political subdivision of the State of Utah. Owner and the County may hereinafter be referred to individually as a “**Party**” to this Agreement and collectively as the “**Parties**” hereto. This Agreement supersedes and replaces any previous agreements entered into or representations made by and between the Owner and the County involving the Property, defined below.

**RECITALS**

A. The County, acting pursuant to its authority under Utah Code §§ 17-27a-101, *et seq.*, 17-53-223, 17-53-302(13),<sup>1</sup> as amended, or the Wasatch County Code (“**County Code**”, further defined below), as amended, and in furtherance of its land use policies, goals, objectives, ordinances, and regulations, in the exercise of its discretion, has elected to approve and enter into this Agreement.

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<sup>1</sup> All references to the Utah Code and County Code are references to the provisions in force as of the Acceptance Date, defined below.

B. Owner holds legal title to the real property, consisting of approximately 18.17 acres located in the unincorporated portion of the County, as described in **Exhibit A** attached hereto (“**Property**”).

C. The Property currently has a zoning designation of RA-1 Residential Agricultural (“**Zone**”). The Owner has not applied for, nor is the County approving, a change to the zoning map or the text of Title 16 of the County Land Use and Development Code.

D. Owner is seeking to develop the Property as a site consisting primarily of a house of worship for adherents of the Church of Jesus Christ of Latter-day Saints (“**Temple**”) together with other gardens, parking, and other uses appropriate for the Temple (the development of the Property consistent with this Agreement being the “**Project**”). Section 16.04.02 of the County Code defines a “Church or Temple” as a “building, together with its accessory buildings and uses, where persons regularly assemble for worship, which building, together with its accessory buildings and uses, is maintained and controlled by a religious body.” Under a page titled, “What is the Purpose of the Temple?,” the website of the Owner indicates the following regarding Owner’s beliefs related to its temples:

For members of the Church, a temple is the most sacred place of worship on the earth. It is unique from all other places of worship. It is designated as the only place where families can be united forever and where the most sacred gospel ordinances are performed. It is also a place where you can feel closer to Heavenly Father and Jesus Christ, a place of peace and revelation, a place where family relationships are strengthened, and a place to seek direction concerning life’s challenges.<sup>2</sup>

E. The County finds that the Project meets the definition of “Temple” because, among other things, the Temple will be used as a place where adherents of the Church of Jesus Christ of Latter-day Saints will regularly assemble to worship. The Owner has indicated that primary building of the Temple will be used for religious ordinances at least five (5) days a week, and the gardens, landscaping, and other uses within the Project will support the worship taking place in the Temple. This planned use of the Temple is consistent with how other temples owned and operated by Owner are used throughout the world. Thus, the County finds that “Church or Temple” is the appropriate use category for the Project. The County finds that the Temple will be considered under the general and more prevalent land use of “church” as used in the County Code.

F. The parties understand and agree that pursuant to Utah Code § 17-27a-528(2)(a)(iii), this Agreement allows for the “use or development of land that applicable land use regulations governing the area subject to [this Agreement] would otherwise prohibit” because the County’s “legislative body [has] approve[d] this Agreement in accordance with the same procedures for enacting a land use regulation.” This Agreement has been approved according to the processes set forth in Utah Code § 17-27a-502. The uses and Development rights that the otherwise applicable

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<sup>2</sup> <https://www.churchofjesuschrist.org/study/manual/families-and-temples/what-is-the-purpose-of-the-temple?lang=eng> (accessed on 5.30.2023).

land use regulations may prohibit are set forth in, among other places, Section 4 and Section 8 of this Agreement and their respective subparts. However, except as expressly set forth in this Agreement, Development of the Project will be pursuant to, and comply with, the County Code and other provisions of Applicable Law.

G. On May 9, 2023, Owner submitted the following applications related to the Project and paid all applicable fees (collectively, the “**Applications**”): (1) a final application for a Site Plan; and (2) a final subdivision application for a Small-Scale Subdivision. The Applications were deemed complete and accepted by the County on May 19, 2023 (“**Acceptance Date**”).

H. The County finds that the Project is consistent with the General Plan. Among other things, and in addition to findings made elsewhere in this Agreement, the County finds that the Project will enhance quality of life in Wasatch County and provide economic opportunities. (*See* General Plan, Chapter Three, Objective 11.1.) The County finds that some residents of the County are adherents of, or otherwise affiliated with, the Church of Jesus Christ of Latter-day Saints. The County further finds that worship in buildings such as the Temple forms an integral part of the spiritual life of adherents of the Church of Jesus Christ of Latter-day Saints. Consequently, the Project will satisfy a social need and enhance the quality of life for some County residents by providing a location for such persons to engage in religious worship that is important to those adherents, and otherwise exercise religious liberty. Based on the information associated with other temples operated by the Church of Jesus Christ of Latter-day Saints, the County finds that the Temple, and the adjoining grounds comprising the Project, will likely be a community attraction which draws persons from outside the County—indeed, from outside the State of Utah—including both adherents and non-adherents of the Church of Jesus Christ of Latter-day Saints, to visit the County. Visitors are likely to come for many reasons, including, to tour the Temple before it commences operations (which tours are open to the general public), to participate directly in ceremonies and ordinances held in the Temple, and to support or celebrate with persons who are participating in such ceremonies and ordinances. In so doing, visitors are likely to patronize local businesses or otherwise positively contribute to the County’s economy. Further, the County finds that one of the ordinances performed in the Temple, marriages, is likely to create the need for new or additional business within the County which are compatible with this use, such as wedding reception or celebration venues, catering operations, and the like. The County further finds that the Project will contribute to the existing Wasatch County Trail System. (*See* General Plan, Chapter Three, Objective 10.2.) As set forth more particularly in Section 8.9, below, the Project will incorporate a perimeter trail system which will be open to, and accessible by, the public. The County further finds that the Project will have dark sky compliant lighting. (*See* General Plan, Chapter Three, Policy 1.1.7.) As set forth more particularly in Section 8.5, below, the Project will comply with the provisions of the County’s recently-adopted Exterior Lighting Ordinance.

I. The County finds that pursuant to the Religious Land Use and Institutionalized Persons Act (“**RLUIPA**”) and the Utah Religious Land Use Act (“**URLUA**”) good cause exists for entering into this Agreement, establishing the rights set forth herein, and subjecting the Property to the obligations set forth herein. Among other things, the County makes the findings set forth in this Recital and incorporates findings made elsewhere in this Agreement, including other Recitals.



Adherents of the Church of Jesus Christ of Latter-day Saints consider the temples to be holy places which they refer to as the “House of the Lord.” Participation in ceremonies and ordinances performed only in temples constitute the highest form of earthly worship for adherents of the Church of Jesus Christ of Latter-day Saints. The number of adherents of the Church of Jesus Christ of Latter-day Saints within the geographic area to be served by the Temple, the projected growth of the County and surrounding areas, and visitors, including visitors from outside the State of Utah—who are likely to visit the Temple, requires that the Temple be of sufficient size and height, including the massing components approved herein, and contain sufficient facilities, to accommodate the needs of such persons. Likewise, the County finds, as asserted by the Owner, that one purpose of the exterior design, height, and other features of the exterior of the Temple is to inspire or encourage adherents of the Church of Jesus Christ of Latter-day Saints to “look to heaven” (which is symbolic to such adherents of the presence of God) and to remember the important components of the worship which take place in the interior of the Temple even when such adherents do not physically enter the Temple. Some courts have recognized the specific religious importance of exterior features, such as steeples, found in or on the temples constructed by the Church of Jesus Christ of Latter-day Saints. *See, e.g., Martin v. Corp. of Presiding Bishop of The Church of Jesus Christ of Latter-day Saints*, 747 N.E.2d 131, 137 (Mass. 2001) (Upholding a local land use authority’s determination that it “is clearly part of [the church’s] theology to reflect, in their buildings, the belief of an ascension towards heaven” and “that steeples, by pointing towards heaven, serve the purpose of lifting [church members’] eyes and thoughts towards heaven.”) Thus, pursuant to RLUIPA and URLUA the County finds, and Owner agrees, that allowing the Temple to have the size, height, massing, and other characteristics provided for herein is the least restrictive means of protecting the County’s compelling interest in regulating land use and design of developments within the County and that greater or stricter restrictions than provided for in this Agreement would unreasonably limit the religious structure and assembly contemplated herein.

J. On [date of Planning Commission hearing], following review and recommendation by the County’s Development Review Committee, and after notice as required under Utah Code § 17-27a-205, the Applications were recommended at a public hearing by the Wasatch County Planning Commission (“**Planning Commission**”) to the County legislative body. The Planning Commission also recommended that this Agreement be forwarded for consideration by the County’s legislative body (“**County Council**”, further defined below). Because this Agreement is a legislative development agreement in connection with which the Applications are also being considered and approved, the County Council will serve as the land use authority for the Applications. *See* Section 16.01.05 of the County Code; Utah Code § 17-27a-103, 501, 528.

K. The Parties desire to enter into this Agreement to memorialize certain conditions and agreements which relate to the Project and to help clarify the process for development of the Project. Without limitation, the purpose of this Agreement is to: (1) enumerate the process of the Applications as permitted uses for the Property and the approved scope of the Project; (2) identify processes for mitigating any environmental impacts; (3) ensure installation of necessary on-site and off-site public improvements; (4) make provision for trail facilities; (5) provide for the timely payment of all fees and charges, including impact fees in the amounts set forth herein; (6) ensure

that public services appropriate to the development of the Project are provided; (7) provide for the maintenance of water retention facilities, trails and open space within the Project during construction and after completion; (8) otherwise achieve the goals and purposes of the County and Owner; (9) identify responsibilities of the Owner and subsequent developers; (10) designate all improvements committed to by the Owner as part of the Final Plan Approval process; (11) provide for the dedication of certain property for the improvement of public roads; (12) provide a record of minutes, staff reports, Power Point presentations and plans; and (13) clarify the approval of the Applications in accordance with Applicable Law as modified by this Agreement.

L. On [date of County Council hearing], after notice as required under Utah Code § 17-27a-205, the County Council adopted Ordinance No. [insert ordinance number] (“**Temple Project Ordinance**”) approving the Applications and this Agreement. Such approvals are collectively referred to herein as the “**Current Approvals**.”

M. The Parties intend that this Agreement, and the County’s approval of this Agreement pursuant to the Temple Project Ordinance, constitute a Land Use Regulation, as that term is defined in Utah Code § 17-27a-103.

N. Each Party acknowledges that it is entering into this Agreement voluntarily, having had the chance to review the Agreement and the terms hereof with attorneys and other advisors of such Party’s choosing.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and provisions set forth herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

## **AGREEMENT**

### **SECTION 1. EFFECTIVE DATE AND TERM**

1.1. Effective Date. This Agreement shall become effective on the date it is executed by Owner and the County (“**Effective Date**”). The Effective Date shall be inserted in the introductory paragraph preceding the Recitals.

1.2. Term of Agreement.

1.2.1 Term. Subject to Section 1.2.2, the term of this Agreement (“**Term**”) shall continue for a period of up to Twenty-Five (25) years after the Effective Date, unless otherwise agreed between the County and Owner in writing. In connection with all Development Applications for Development activities related to the Project, Owner will proceed with reasonable diligence in conformity with Section 16.1.16 of the County Code. Legal challenges that may toll the ability of the County or the Owner to move forward as required under Section 16.01.16 of the County Code and will toll the deadlines therein.

1.2.2 Continuing Nature of Approvals. Upon termination of this Agreement, for any reason, the existing or prospective obligations of the Parties to each other hereunder shall terminate, but none of the recorded plats, site plans, licenses, building permits, or certificates of occupancy, or other approvals granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner due to the expiration or termination of this Agreement. No easements, maintenance requirements, infrastructure improvement obligations, or other agreements which are intended to run with the land, including obligations that were based upon such approvals, shall expire upon termination or expiration of this Agreement.

1.3 Legislative Enactment. As set forth in the foregoing Recitals, this Agreement has been approved by the County Council pursuant to Utah Code § 17-27a-502 after notice as required under Utah Code § 17-27a-205. Thus, pursuant to Utah Code § 17-27a-528, and as set forth in the Recitals, this Agreement allows uses and Development of land that applicable land use regulations would otherwise prohibit. The County Council finds this Agreement is consistent with the General Plan in all material respects for this Project, notwithstanding any particular provision or provisions of the General Plan which may be interpreted to be inconsistent with this Agreement, and regardless of any contrary provision of the County Code.

## SECTION 2. DEFINITIONS

The terms or phrases below shall have the meanings given in this Section when used in this Agreement. Other terms may be defined elsewhere in the Agreement. Unless otherwise indicated, the plural of any term shall have the same meaning as the singular, and vice-versa.

“**Acceptance Date**” means May 19, 2023, the date the County accepted the Applications.

“**Applicable Law**” has the meaning set forth in Section 4.4.1 of this Agreement.

“**Applications**” has the meaning set forth in the Recitals of this Agreement.

“**Changes in the Law**” has the meaning set forth in Section 4.4.3 of this Agreement.

“**City**” means Heber City, a municipal corporation and a political subdivision of the state of Utah.

“**Conditions to Current Approvals**” has the meaning set forth in Section 3.1.2 of this Agreement.

“**County**” means Wasatch County, a political subdivision of the State of Utah, and shall include, unless otherwise provided, any and all of the County’s agencies, bodies, departments, officials, employees or agents. References herein to findings made by the County mean findings made by the County Council, which findings may have been recommended by the Planning Commission.

**“County Code”** means the Wasatch County Code in effect as of the Acceptance Date.

**“County Council”** means the County’s governing legislative body.

**“Current Approvals”** has the meaning set forth in the Recitals of this Agreement.

**“Development”** means the planning, design and construction of buildings, amenities, infrastructure and other improvements pursuant to and consistent with the Current Approvals.

**“Development Application”** means any application for the approval of Development within the Project, to the extent an application is required under the Applicable Law, which is submitted after the Effective Date.

**“Director”** means the Director of the Wasatch County Planning and Zoning Department (or any successor body or department which oversees approval of planning and development for the County), or his or her designee.

**“Effective Date”** means the date referred to in Section 1.1 of this Agreement.

**“Exterior Lighting Ordinance”** means Ordinance No. 23-01 adopted by the County Council at a duly noticed public meeting on April 19, 2023. The Exterior Lighting Ordinance has sometimes been referred to by the County and others as the **“Dark Sky Ordinance.”**

**“Final Plan”** means the proposed final site plan for the Property which is attached as **Exhibit B** to this Agreement.

**“General Plan”** means the General Plan of Wasatch County, as approved by the County Council, which is in effect as of the Acceptance Date.

**“LUDMA”** means the County Land Use, Development, and Management Act, Utah Code § 17-27a-101, *et seq.*

**“MOU”** has the meaning set forth in Section 8.6 of this Agreement.

**“Owner”** means those entities or persons identified as Owner in the preamble, and shall include Owner’s successors in interest, transferees and assigns, including, where applicable, assignments to successors in interest or assignees of Owner’s rights and obligations under this Agreement. The obligations of Owner shall automatically be assigned to subsequent purchasers of the Project, and subsequent purchasers of the Project or any portion thereof shall expressly assume the obligations of Owner pursuant to this Agreement.



“**Project**” means the Property and the development on the Property which is the subject of this Agreement, any ancillary and additional improvements or endeavors incident to the development of the Project.

“**Project Improvements**” means all infrastructure improvements intended for public or private use and located within the boundaries of the Project, including but not limited to sewer lines, water lines, roads, electricity, gas, telephone, detention basins, curb and gutter, trails, and recreational facilities.

“**Property**” means the parcel or parcels of land which are the subject of this Agreement, and which are more particularly described in **Exhibit A**.

“**RLUIPA**” means the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc, *et seq.*

“**Temple**” has the meaning set forth in the Recitals of this Agreement.

“**Temple Project Ordinance**” has the meaning set forth in the Recitals of this Agreement.

“**URLUA**” means the Utah Religious Land Use Act, Utah Code §§ 63L-5-101, *et seq.*

### **SECTION 3. OBLIGATIONS OF OWNER AND THE COUNTY**

#### **3.1. Obligations of Owner.**

3.1.1. Generally. The Parties acknowledge and agree that the County’s agreement to perform and abide by the covenants and obligations of the County set forth herein is material consideration for Owner’s agreement to perform and abide by the covenants and obligations of Owner set forth herein.

3.1.2. Conditions to Current Approvals. Owner shall comply with all of the following conditions (collectively “**Conditions to Current Approvals**”):

3.1.2.1. Compliance With Conditions Imposed by County. Owner agrees to comply with the conditions recommended and approved by County Council in connection with the approval of the Applications as set forth in this Agreement or attached hereto as **Exhibit C**. Owner understands and agrees that the representations made by Owner as part of the approval of the Applications are part of the basis for such approval and as such are integral components of the Current Approvals.

3.1.2.2. Payment of Administrative Fees. Owner agrees to pay all generally applicable Wasatch County fees required under Applicable Law as a condition of developing the Property and Project.

3.1.2.3. Payment of Impact Fees. Wasatch County has enacted an impact fee ordinance. Subject to adjustments approved by the Director or the County Council, Owner agrees to pay the applicable impact fees due and payable in connection with any structure built by Owner, or Owner's agent, employee, contractor, or subcontractor.

3.1.2.4. Payment of Special Service District Fees and Charges. Owner agrees to pay any and all fees imposed by the service districts providing services to the Project, including (but not limited to) fees for plan check and engineering review. The following services will be provided to the Project by special service districts, each of which has issued to Owner a "will serve" letter agreeing to provide the applicable services to the Project:

<b>Service</b>	<b>Entity Providing Service</b>
Culinary Water	Twin Creeks Special Service District
Irrigation Water	Twin Creeks Special Service District
Trash Removal	Wasatch County Solid Waste Special Service District
Sanitary Sewer	Twin Creeks Special Service District
Electricity	Heber Light & Power

3.1.3. Construction of Project Improvements. Owner will construct the Project Improvements associated with the Project, consistent with the Final Plan. Project Improvements include: (a) any roads and other improvements within the public rights-of-way within the Project, sidewalks, curb, gutter, street lighting, signage, and wet and dry utilities within such rights-of-way, within or adjacent to the perimeter or boundary of the Project; (b) all emergency and secondary access to the Project to the extent set forth in the Final Plan; (c) utility lines or facilities within the Project, or adjacent to the Project and necessary to provide utility service for the Project; (d) trails shown as shown on the Final Plan, including within or adjacent to the Project; (e) landscaping in areas inside of Project; and (f) all other improvements or dedications that are required within the Project or adjacent to the Project required by the County Code. Project Improvements shall be inspected and accepted by the County or other applicable utility service providers in writing prior to the issuance of a certificate of occupancy for any building within the Project. As set forth in Section 8.5 of this Agreement, the lighting shall be installed in a manner that meets the requirements of the Lighting Plan, as defined in Section 8.5, below, including any fine tuning of the foot-candle levels, shielding or other lighting installation issues, prior to issuance of a certificate of occupancy for the Temple. Also, for the avoidance of doubt, to the extent Twin Creeks Special Service District or any other utility provider will own or operate any portion of the Project Improvements, such portion of the Project Improvements will be constructed to the standards required by such utility provider. When construction is complete, such portion of the Public Improvements will be approved by the applicable utility provider and the utility provider will inspect and accept such portions of the Public Infrastructure. The issuance of a building permit does not waive any requirements related to Project Improvements.

3.1.4. Maintenance of Trails. The Final Plan identifies and trails for the Project. In the event Owner fails to maintain the trails in a manner consistent with comparable public areas maintained by the County, then the County may (but is not obligated to) maintain the trails after written notice to Owner except in emergency situations. The market value of the cost of any maintenance performed by the County pursuant to this Agreement shall be paid to the County within thirty (30) days after written demand to Owner and the County will have such rights to collect the same as are provided for under Section 16.27.23(B)(4) of the County Code.

3.1.5. Storm Water Management. The Final Plan will incorporate appropriate facilities to manage on-site storm water consistent with the County Code. Such facilities must be completed and operational prior to any certificates of occupancy for buildings in the Project being issued. The storm water facilities shall be maintained in accordance with manufacturer recommendations, or according the County Code for detention basins, as applicable. A system maintenance plan, based on manufacturer recommendations for the initial underground storm water detention facilities, are attached hereto as **Exhibit E**. Notwithstanding the foregoing, Owner may update and replace the storm water infrastructure in accordance with the Applicable Law, and shall provide updated maintenance recommendations upon request of the County. If maintenance of storm water facilities is not completed as required, the County may, but is not obligated to maintain the on-site storm water facilities, after written notice to Owner except in emergency situations. The market value of the cost of any maintenance performed by the County pursuant to this Agreement shall be paid to the County within thirty (30) days after written demand to Owner and the County will have such rights to collect the same as are provided for under Section 16.27.23(B)(4) of the County Code.

3.1.6. Bonding.

3.1.6.1. Performance Bonds and Warranty Bonds. Prior to any subdivision plat for the Project being recorded, or the issuance of any building permits in the Project, any Project Improvements which are to be dedicated to the public shall be completed, or bonded for with the appropriate governmental entity. Approval of any plat will be contingent on a performance bond being issued for 100% of the uncompleted portion of the public Project Improvements that must be completed in connection with development of the area shown on such plat, unless such portion of the Project Improvements are actually constructed and approved prior to the recording of the plat. The procedure for posting of any performance bond shall be in accordance with Section 16.27.21 of the County Code. Owner shall also post with the appropriate governmental entity a warranty bond for ten percent (10%) of the cost of completion of any Project Improvements which will be dedicated to the public. Included with the bond shall be an itemized engineer's cost estimate of all onsite and offsite improvements, trails, landscaping and any other amenities that are required as part of the Final Plan. Any bonds for the improvements to Center Street which are required by the City must be timely placed with the City according to its policies and procedures. The Center Street improvements will be inspected and approved by the City. The County Manager may require for the Center Street improvements either be completed or bonded

for with the City as a condition of recording a plat for the Project or for issuing development permits.

3.1.6.2. No Third Party Rights. All bonds, including but not limited to performance, warranty bonds, and related agreements are between the County, Owner (or contractor if applicable), and financial institution. No other person or entity shall be deemed a third-party beneficiary or have any rights under this subsection or any bond or agreement entered into pertaining to bonds. Any other person or entity, including but not limited to owners of individual units or lots, shall have no right to bring any action under any bond or agreement as a third-party beneficiary or otherwise.

3.1.7. Private Drives.

3.1.7.1. Road Maintenance. There will be no roads on the interior of the Project, and all entranceways, pathways, driveways and parking areas on the interior of the Project will be private roads, unless the County and the Owner agree otherwise in writing. Center Street and the stub of Pimlico Drive will remain public roads. Private driveways and parking areas shall be constructed in accordance with County standards. The Owner shall maintain the driveways and the parking areas, providing the same level of service provided to other similar facilities in the County.

3.1.7.2. Snow Removal and Fire Access. Owner shall provide snow removal on all private driveways and parking areas in the Project. In addition to private roads Owner shall provide access to the Temple for fire apparatus in locations shown on **Exhibit G** attached hereto. Owner shall keep any ground cover or foliage in the fire access areas six inches (6") or less in height. Owner will not stockpile snow higher than six inches (6") in the fire access area shown on **Exhibit G**.

3.1.8. Owner Liabilities. The obligations of Owner shall automatically be assigned and assumed by subsequent purchasers of the Project, but the Owner shall not be released from the Project Improvement obligations as a result of the assignment and the assumption by subsequent purchasers. In the event that the Property is conveyed in part, the fee owner of that portion of the Property assumes the obligations of this Agreement applicable to such portion.

3.2. Obligations of the County.

3.2.1. Generally. The Parties acknowledge and agree that Owner's agreement to perform and abide by the covenants and obligations of Owner set forth herein is material consideration for the County's agreement to perform and abide by the covenants and obligations of the County set forth herein.

3.2.2. Limit on Conditions to Current Approvals. The County shall not impose any further Conditions to Current Approvals other than those detailed in this Agreement, unless agreed to in writing by the Parties.



3.2.3. Acceptance of Project Improvements. The County agrees, subject to the terms of this Agreement, to accept those Project Improvements to be dedicated to the County, in accordance with the County Code.

3.2.4. Additional Obligations of the County.

3.2.4.1. Road Maintenance and Snow Removal. Center Street and the stub of Pimlico Drive adjacent to the Project shall be public roads. The County will maintain and provide snow removal for the stub of Pimlico Drive, providing the same level of service provided to other Class B Roads in the County. The parties expect that the City will maintain and provide snow removal for the portion of Center Street which is adjacent to the Project as set forth in the MOU described below.

**SECTION 4. OWNER VESTED RIGHTS AND APPLICABLE LAW.**

4.1. Owner Rights. The Owner has the right to develop the Project in accordance with this Agreement including, without limitation, the rights set forth in this Section 4 (and its subparts) and the rights set forth in Section 8 of this Agreement, below.

4.1.1. Generally. As of the Effective Date of this Agreement, Owner has the vested right to proceed with the development of the Property and the Project in accordance with the approvals granted in this Agreement, the Final Plan, and the Current Approvals, for the term of the Agreement.

4.1.2. Permitted Use. Pursuant to RLUIPA and URLUA, the County finds that permitting the use of the Property for the Temple and the Project—subject to the terms, limitations, conditions, and obligations of this Agreement—is the least restrictive means of furthering the County’s compelling governmental interest in imposing a cohesive, County-wide zoning framework. Thus, notwithstanding any contrary provision of Section 16.08.02, Section 16.08.03, or Section 16.21.11 of the County Code, the County finds that Project, including the Temple, is a permitted and approved use for the Property, subject to the terms, limitations, conditions, and obligations of this Agreement. Without limitation, to the extent that Section 16.08.03 or Section 16.21.11 of the County Code would otherwise require the Owner to obtain a conditional use permit with respect to the Project, both for the ‘religious activities’ use and the greater height for a church, the Planning Commission and the County Council—in approving this Agreement—have found that appropriate standards for approval have been satisfied in the case of the Project. Specifically, and in addition to other findings set forth herein, the Owner has asserted, and the County accepts the following findings with respect to issues raised in Section 16.23.07 of the County Code, not by way of granting a conditional use permit for the Project, but by way of addressing how the standards of Section 16.23.07 of the County Code could be met, especially when interpreted in light of RLUIPA or URLUA.

4.1.2.1. Compliance with Land Use Code. The Project complies with all the requirements of Title 16 of the County Code, as modified by the Temple Project Ordinance and this Agreement.

4.1.2.2. Licensing. Owner will hold and maintain any business licenses required in connection with the operation of the Project.

4.1.2.3. Compatibility of Use. The Project primarily adjoins residential uses. The religious nature of the use of the Project is compatible with, and does not adversely affect, the surrounding uses. The Project is consistent with such residential uses in terms of the Project's use, location, scale, mass, design, and circulation—subject to the limitations set forth in Section 8 of this Agreement and its subpart. As described in Section 8.2, the Temple building is set back from the boundary lines of the Property and is situated in an appropriate location on the Property. The size and massing of the Temple in relationship to the overall size of the Property creates an appropriate scale. The Property is about 18 acres, whereas the RA-1 zone allows for development on one acre lots. Owner has designed the Temple in a manner which contains necessary size, design features, and massing given religious purposes of the Temple. The design of the Temple is harmonious with other historical buildings within the County and does not detract from surrounding residential buildings adjacent to the Property. The Project has two (2) ingress-egress access points to Center Street and the internal traffic circulation pattern has been approved by the Wasatch County Fire District.

4.1.2.4. Mitigating Visual and Safety. The visual impacts of the Temple building are adequately mitigated by the building's setback from the Property's boundary lines and the other terms, limitations, conditions, and obligations of this Agreement adequately mitigate any safety concerns.

4.1.2.5. General Plan. The use of the Property as a Temple is consistent with the General Plan, including for the reasons set forth in the Recitals of this Agreement.

4.1.2.6. Expansion. The Project is not expandable in scale or use.

4.1.2.7. Lighting, Parking, and Location. Issues relating to the lighting for the Project will be pursuant to the Exterior Lighting Ordinance, as provided in Section 8.5 of this Agreement. The Exterior Lighting Ordinance has been challenged in State Court. However, regardless of whether the Exterior Lighting Ordinance is overturned as a result of that process, the parties agree that the lighting for the Project will be governed by the terms, conditions, and obligations of the Exterior Lighting Ordinance as approved in the Lighting Plan and to be verified in the field during construction of the Temple. The character of the use and the surrounding developments are sufficiently harmonious with the Project as set forth in Section 4.1.2.3, above. The City has indicated that Center Street—which is a collector street adjacent to the Project—has sufficient capacity to handle the anticipated traffic for the Project, with the addition of the proposed round-about which the

Parties expect will be constructed pursuant to the MOU. The New Collector Street, described in Section 8.8.2, below, will further provide capacity for the anticipated traffic. Other relevant issues relating to parking, drainage, erosion, soil stability, wildlife impacts, dust, odor, noise and vibrations, etc., are adequately mitigated through the terms, limitations, conditions, setbacks, site plan provisions, and obligations set forth in this Agreement.

4.1.2.8. Financial Burden. The Project will not create an unreasonable financial burden on the County or on surrounding properties because Owner will be responsible to fund the development of any and all onsite infrastructure and the required off-site improvements identified in this Agreement or under Applicable Law. In addition, Owner and the County expect to enter the MOU with the City describing the Parties' obligations with respect to the maintenance of the relevant portion of Center Street.

4.1.2.9. Health, Safety, and Welfare. The religious nature of the Temple provides a direct social benefit for some County residents who are adherents of the Church of Jesus Christ of Latter-day Saints. Further, as set forth in the Recitals of this Agreement, the use anticipated by the Project is not adverse to the health, safety, or welfare of the residents of, and visitors to, the County.

4.1.2.10. Development Applications. As set forth in Section 4.2, below, Owner will obtain appropriate permits and approvals required in connection with further Development. As set forth in Section 4.4.1, below, such approvals will confirm with the IBC.

4.1.3. Specific Development Rights and Obligations. Without in any way limiting the foregoing, Owner has the vested right to develop the Project in accordance with the Final Plan and pursuant to the terms, conditions, obligations, and restrictions set forth in this Agreement, including this Section 4, and its subparts, and Section 8, and its subparts.

4.2. Processing Development Applications. The County shall approve Development Applications if they comply with Applicable Law and conform to this Agreement.

4.2.1. Timing. The County agrees to respond to Development Applications in a timely manner, consistent with the requirements of Applicable Law. Owner reserves all rights and remedies with respect to the County's failure to timely review and respond to a Development Application.

4.2.2. Final Action. The County will approve a Development Application so long as the Development Application is complete and complies with Applicable Law, including this Agreement. Owner may appeal any Denial of a Development Application as provided in the County Code and LUDMA.

4.3. Reserved Legislative Powers. Nothing in this Agreement shall limit the future exercise of the police power by the County in enacting zoning, subdivision, development,

transportation, environmental, open space, and related land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of the County to enact such legislation under its police power, such legislation shall not modify Owner's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah, 1988), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

#### 4.4. Laws Applicable to the Parties' Performance.

4.4.1. Applicable Law. Unless otherwise set forth in this Agreement, the rules, regulations, official policies, standards and specifications applicable to the development of the Property ("**Applicable Law**"), shall be the County's rules, regulations, official policies, standards and specifications, including the County Code, and other applicable state law, and federal law in effect as of the Acceptance Date. For the avoidance of doubt, the County agrees that Applicable Law includes the 2021 version of the International Building Code ("**IBC**"). However, notwithstanding the foregoing, any person submitting a Development Application shall be subject to updates to the building, electrical, mechanical, plumbing, and fire codes, and other technical specifications of the County Code, including the IBC, relating to the placement and construction of the proposed structure referenced in the Development Application, which are in effect at the time the person files with the County a completed Development Application. Nevertheless, on and after the Effective Date, Owner and County may agree, in each's sole discretion, to have a Development Application reviewed under any or all laws and standards in effect at the time the Development Application is submitted rather than under Applicable Law.

4.4.2. Effect of Conflict. Except as provided herein, development of the Project will be consistent with the County Code and other provisions of Applicable Law. In the event of a conflict between Applicable Law and this Agreement, including its Exhibits, then the provisions of the Agreement and its Exhibits shall control to the fullest extent possible. Specifically, certain provisions of this Agreement and its Exhibits may supersede and replace provisions of the County Code, but only with respect to the Project. Pursuant to the Act (Utah Code § 17-27a-528), this Agreement and its Exhibits have been approved by the County's legislative body in accordance with the same procedures, including notice provisions, used for enacting a land use regulation under Utah Code § 17-27a-502, including a review and recommendation from the Planning Commission, and a public hearing.

4.4.3. State and Federal Law. Notwithstanding any other provision of this Agreement, this Agreement shall not preclude the application of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations ("**Changes in the Law**") applicable to the Property, provided such Changes in the Law are generally applicable to other similarly situated properties. In the event the Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement shall be modified or suspended, or performance



thereof delayed, as may be necessary, but only to the extent necessary to comply with the Changes in the Law.

## SECTION 5. AMENDMENT

5.1. Administrative Amendments. It is the County's practice, in connection with the prosecution and enforcement of any land use decision, to administratively approve minor, inconsequential modifications, as determined in the discretion of the County. That process and the applicable standards are discussed in Section 16.27.10(D) of the County Code in the context of changes from preliminary approvals to final applications, but the concept is applied in the prosecution and enforcement of final approvals as well. In accordance with the County's standard practice regarding land use decisions, Owner may, from time to time, propose amendments to the Agreement which, if proposed by Owner, may be considered and approved by County officials as outlined below, but only if such amendment represents a minor, inconsequential change to the Agreement, and if such amendment is otherwise in compliance with Applicable Law. Nevertheless, Owner or the County official, may refer any amendment initially proposed by the Owner to be considered by the County Council for approval under Section 5.2 of this Agreement.

5.1.1. Infrastructure. Minor, inconsequential changes of the location or sizing of the Project Infrastructure that does not materially change the functionality of the Project may be approved administratively by the County Engineering Coordinator or designee.

5.1.2. Design Guidelines. During buildout of the Project, Owner may propose, and the Director may administratively approve, minor, inconsequential changes to the guidelines and standards for design of the Project ("**Design Guidelines**") attached hereto as **Exhibit D**, including to respond to availability of materials or to respond to community input.

5.1.3. Technical Edits. Minor technical edits or corrections to this Agreement and its Exhibits, including to the Final Plan, which are necessary to clarify or modify such documents consistent with their intended purpose, may be approved by the head of the County department or agency which would have primary review responsibility for the issue in the County's DRC review process.

5.1.4. Legal Description. Modifications to the legal description of the Property, including, without limitation, modifications to respond to any survey or resurvey of the Property, may be approved by the County Surveyor.

5.2. Amendments Generally. Unless otherwise stated in Section 5.1, above, the Parties may amend this Agreement by mutual written consent as approved by the County Council, and following any processes or hearings required under Applicable Law. No amendment or modification to this Agreement shall require the consent or approval of any person or entity having any interest in any specific lot, unit or other portion of the Project.

## SECTION 6. DEFAULT

6.1. General Provisions.

6.1.1. Defaults Generally. In the event any Party fails to perform any duty or obligation under this Agreement, the other Party shall give written notice (“**Notice of Default**”) as provided herein. The Notice of Default shall specify the nature of the alleged failure, provide documentation or evidence substantiating the alleged failure, and, where appropriate, shall state the manner in which said failure satisfactorily may be cured.

6.1.2. Cure Period. Any failure identified in a Notice of Default which continues uncured for a period of more than thirty (30) days following such Party’s receipt of the Notice of Default may be deemed a default hereunder, unless a different period is provided in this Agreement or such period is extended by written mutual consent, or as provided herein shall constitute a default under this Agreement. If the nature of the failure alleged in the Notice of Default is such that it cannot reasonably be cured within such period of thirty (30) days, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within the permissible period. Upon the occurrence of an uncured default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured prior to termination, then no default shall exist and the Party giving the Notice of Default shall take no further action. Except as otherwise provided in this Agreement, LUDMA or the County Code shall govern the appeal of any approval, denial, or failure to approve a land use application by the County.

6.2. Review of Agreement by County.

6.2.1. Generally. The County may from time to time, request that Owner demonstrate that Owner is in full compliance with any specific provision, term, or condition of this Agreement by providing written notice identifying the provision, term, or condition about which the County is inquiring. Owner shall provide any and all information reasonably necessary to demonstrate compliance with this Agreement as requested by the County within sixty (60) days of the request, or at a later date as agreed between the Parties.

6.2.2. Determination of Non-Compliance. If the County finds and determines that Owner has not complied with the terms of this Agreement, and noncompliance may amount to a default if not cured, then the County may deliver a Notice of Default pursuant to Section 6.1.1 of this Agreement. If the noncompliance is not timely cured by Owner, the County may terminate this Agreement.

6.3. Default by the County. In the event the County defaults under the terms of this Agreement, Owner shall have all rights and remedies provided in this Agreement and provided under Applicable Law.

6.4. Extension of Time for Performance. Notwithstanding anything to the contrary contained herein, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of any of the following (each an “**Event of Force Majeure**”): war, insurrection, terrorist acts, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, pandemics or epidemics, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environmental regulations, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Changes in the market, or the financial standing of the Parties shall not serve as a basis for excused performance. Upon the request of either Party hereto, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

## **SECTION 7. DEFENSE AND INDEMNITY.**

7.1. Owner’s Actions. Owner shall defend, hold harmless, and indemnify the County and its elected and appointed officers, agents, employees, and representatives from any and all claims, costs, judgments and liabilities (including inverse condemnation and attorney fees) for bodily injury or property damage which are asserted against the County and which arise directly or indirectly from the construction of the Project, or operations performed under this Agreement by: (a) Owner or by Owner’s contractors, subcontractors, agents or employees, or (b) any one or more persons directly or indirectly employed by, or acting as agent for, Owner or any of Owner’s contractors or subcontractors. Owner will have no obligation to indemnify for the actions of third-parties not identified in the preceding sentence. The Owner further releases any claims which Owner has or may have against the County and its elected and appointed officers, agents, employees, and representatives, arising directly out of the approval of this Agreement, except for willful misconduct or fraudulent acts by the County. Nothing in this section shall abrogate any defenses or immunities under the Utah Governmental Immunity Act.

7.2. Hazardous, Toxic, and/or Contaminating Materials. Owner further agrees to defend and hold harmless the County and its elected and/or appointed boards, officers, employees, and agents from any and all claims, liabilities, damages, costs, fines, penalties and/or charges of any kind whatsoever relating to the existence of hazardous, toxic and/or contaminating materials on the Project, but only to the extent the same are caused by or relate to the intentional or negligent acts of Owner, or Owner’s officers, contractors, subcontractors, employees, or agents.

7.3. Limitation on Indemnity. Nothing in this Agreement shall be construed to mean that Owner shall defend, indemnify, or hold the County or its elected and appointed representatives, officers, agents and employees harmless from any claims of personal injury, death or property damage or other liabilities arising from: (a) the willful misconduct or negligent acts or omissions of the County, or its boards, officers, agents, or employees; or (b) the negligent maintenance or repair by the County of any County facilities or improvements, including improvements that have been offered for dedication and accepted by the County for maintenance.

## **SECTION 8. SPECIFIC DEVELOPMENT RIGHTS AND OBLIGATIONS.**

8.1. Design Guidelines. Owner may develop the Temple and other structures within the Project generally according to exterior design standards and criteria set forth in the Design Guidelines attached hereto as **Exhibit D.**

8.2. Building Height. Notwithstanding any contrary provision of the County Code, the Temple may exceed the otherwise applicable height allowed in the Zone, subject to the limitations of this Section and its subparts. The County agrees that a distinction from the more typical height requirement in the Zone is appropriate for a number of reasons. As noted in Recital D, the Temple qualifies as a “Church or Temple” within the meaning of Section 16.04.02 of the County Code. Pursuant to Section 16.21.11 of the County Code, churches are entitled to additional height in the context of a conditional use permit. Although such a permit is not necessary here, in light of the approvals granted pursuant to this Agreement, as set forth in Section 4.1.2, above, the Owner asserts, and the County accepts that all the requirements for granting a conditional use are present in the case of the Project. Thus, additional height provided for below is justified. The County also finds that the Recitals of this Agreement also identify the justification for the height of the Temple. Moreover, in certain zones abutting residential zones, as setbacks increase, additional height is permitted. *See* Section 16.21.19(A) of the County Code, providing for two feet (2’) of building height over twenty feet (20’) for each additional one foot (1’) of setback beyond what is required. Although the Temple is not in a business, commercial, or industrial zone, the setbacks from Property’s boundary lines, as shown on the Final Plan, confirm that the maximum height provided for below is appropriate for the Property and is hereby approved.

8.2.1. Maximum Height of Main Structure. The main structure of the Temple, to the top of the screen parapet, shall not exceed a maximum height of one hundred feet (100’) above natural grade.

8.2.2. Towers. Consistent with the County Code, the spires, steeples, or towers on the Temple are not subject to the height limitation set forth in this Section and may be higher. Buildings other than the Temple situated within the Project will be limited to the otherwise applicable height allowed under the County Code. Without limiting the foregoing, the parties anticipate that the east tower may extend approximately one hundred forty-one feet (141’) above existing grade and the west tower may extend approximately two hundred ten feet (210’) above natural grade.

8.3. Massing. Notwithstanding any contrary provision of the County Code, the Temple shall be permitted to have a size and massing characteristics consistent with the terms and provisions of the Design Guidelines.

8.4. Parking. As set forth in the Final Plan, the Project has the number and character of parking stalls consistent with the County Code or the approved parking study.

8.5. Exterior Lighting and Hours of Operation. All exterior lighting within the Project, including lighting of the Temple itself, will be installed, maintained, and operated pursuant to the



terms, conditions, and restrictions of the Exterior Lighting Ordinance. Owner agrees to comply with the Exterior Lighting Ordinance, even if the Exterior Lighting Ordinance is overturned by a court of competent jurisdiction. There is some level of discretion in how to apply the standards of the Exterior Lighting Ordinance to the Project. Although the County has determined that the lighting plan for the Project included as a component of the Final Plan (“**Lighting Plan**”) is substantially compliant with the Exterior Lighting Ordinance, and the County Code, including sections 16.21.19, 16.21.16, 16.26, 16.33.10, the County Council hereby legislatively approves the Lighting Plan for the Project. The parties note that if the Exterior Lighting Ordinance were to be struck down by a court of competent jurisdiction, then without this Agreement, the Project would be vested under the prior version of the County Code, which allows any amount of light on a site or building without limits as long as it is directed down. The Exterior Lighting Ordinance, and the Lighting Plan, limits the quantity of light, and helps protect the night sky by using newer technologies that help limit light pollution. The Lighting Plan helps preserve the views of the night sky and reduce the health impacts of artificial light more than the lighting restrictions in the version of the County Code which existed prior to the enactment of the Exterior Lighting Ordinance. The Lighting Plan balances the health, safety, welfare interests of adequate lighting required under the IBC, FAA, and recommendations of the Illuminating Engineering Society (“**IES**”) with the welfare interests in reducing light pollution. The Owner shall comply with the Lighting Plan and associated lighting levels in perpetuity, unless a new application for a lighting plan is approved as provided for herein. Any subsequent applications for changes to the exterior lighting of the Project shall be evaluated pursuant to the Exterior Lighting Ordinance, even if the ordinance is overturned by a court of competent jurisdiction. For purposes of the Exterior Lighting Ordinance, Owner states that current normal business hours begin at six o’clock (6:00) A.M. and close at ten o’clock (10:00) P.M. Those shall be deemed the normal business hours and hours of usual operations for lighting purposes year-round, even on days when the Temple may not be open. Notwithstanding the foregoing, nothing in this Agreement or the Exterior Lighting Ordinance will prevent Owner from installing motion-activated sidewalk and parking lot lighting, in accordance with the Lighting Plan, for safety purposes in connection with all after-hours access to the Temple or Property, including for maintenance purposes; provided, however, that such motion-activated safety lighting will not allow Owner to illuminate the exterior of the Temple outside of hours otherwise allowed under the Exterior Lighting Ordinance. Nevertheless, and notwithstanding any provision of the Exterior Lighting Ordinance, nothing in this Agreement will be deemed to restrict Owner’s ability to install the lowest amount of lighting as required by the regulations or rules administered by the Federal Aviation Administration (“**FAA**”) based on the Temple’s proximity to the Heber Valley Airport. Owner shall comply with FAA regulations with respect to exterior lighting for the Temple and other components of the Project. Owner has worked with the FAA to identify “the lowest amount of lighting” as identified in the FAA regulations. Owner has made a reasonable effort to apply for the lowest amount of lighting required for the Project, including options having the lowest Candela allowed. The FAA has indicated to Owner that Owner may comply with the applicable FAA regulations with either nighttime lighting of the upper portion of the western spire of the Temple, or with a solid red light at or near the top of the western spire, which would not require otherwise applicable lighting of the western spire.

8.6. Cooperative Agreement Regarding Center Street. The Parties anticipate that on or after the Effective Date, Owner, the County, and the City (or, alternatively, the Owner and the City), will enter into a Memorandum of Understanding (“**MOU**”) identifying and outlining the respective responsibilities of Owner, the County, and the City with respect to the maintenance of the portion of Center Street fronting the Property. Notwithstanding the foregoing, the MOU will not modify or limit any approvals, entitlements or obligations arising under this Agreement.

8.7. Ridgeline / Viewshed Analysis. The County does not maintain that the Ridgeline / Viewshed provisions of the County Code apply to the Project because the development is not located on or about a ridgeline. The County has never applied the Ridgeline / Viewshed provisions to development on the valley floor. Regardless, the County finds that the provisions of this Agreement adequately address any visual impact created by the Temple and that no additional conditions are required with respect to the Project under Section 16.27.22 of the County Code. The Project meets the requirements of Section 16.27.22, and the Temple is not limited in height, or location on the Property due to Section 16.27.22.

8.8. Flood Zone and Southern Property Boundary. The western portion of the Property is located within “Zone AE” (“**Flood Zone Parcel**”) as shown on the Flood Insurance Rate Map, with an Effective Date of March 15, 2012 (Panel 0119E). The following provisions will apply to the development of the Flood Zone Parcel and the southern boundary line of the Property.

8.8.1. Flood Zone Development. Owner will not install or maintain any impervious surfaces on the Flood Zone (except as necessary to complete the Trail). However, the foregoing will not preclude Owner from using or modifying the Flood Zone Parcel for landscaping, stormwater detention, or other purposes which do not require permanent impervious surfaces (except as necessary to complete the Trail) so long as modifications do not affect the grade of the Flood Zone Parcel, inhibit flows, redirect flows in a manner that will harm others and are in compliance with FEMA regulations. Owner may be permitted to install on the Flood Zone irrigation and stormwater lines, channels, drains, and other equipment consistent with the foregoing purposes. The Flood Zone Parcel may also include portions of the Trail, identified below. Nothing in this Section 8.8 exempts the Project from Section 16.28.08 of the County Code or any applicable FEMA regulations.

8.8.2. Access via Southern Property Boundary. In connection with the prior development of the Triple Crown Subdivision (“**Subdivision**”), a stub of Pimlico Drive (“**Stub Road**”) was installed to the north of the intersection of Pimlico Drive with Preakness Lane. The Stub Road was constructed in anticipation that the Property might be used as residential purposes and, thereby, provide connectivity between the Property and the Subdivision. However, in light of Owner’s determination to use the Property for the Temple and not for a future residential subdivision, the County finds that it is appropriate for the Stub Road to not be extended through the Property. This finding is based on, among other things, the provisions of the following sections. Additionally, because Pimlico Drive will not be connected through to Center Street, and in lieu of the road, sidewalk and culvert improvements that Owner would otherwise install, Owner will be required to improve the dead end of Stub Road—but only to the extent such

improvements are or will be located on the Property or in a public right of way, but will not require a turnaround or hammer head. Rather, Owner will extend existing improvements on or adjacent to the Stub Road such that they will continue for a total of approximately one hundred fifty (150) feet from intersection with Preakness Lane, as shown on the Final Plan. The improvements to the Stub Road may include extension of existing sidewalk, curb, drainage, and non-irrigated landscaping in accordance with the Final Plan.

8.8.3. New Collector. The City is constructing a collector street to the east of the Humbug Canal running north from Center Street (“**New Collector Street**”). The New Collector Street will intersect Center Street at the location of the Project’s west entrance onto Center Street. If the Stub Road were extended through the Project to the Project’s west entrance, Pimlico Drive would become an extension of the New Collector Road, which the County Council finds to be contrary to the health and safety of the residents of the Subdivision. The County Council finds that Mill Road should act as the collector road for the Subdivision and other developments directly south of the Property, and connecting the Stub Road would undermine that intent. The County Council also finds that extending the Stub Road through the Project would create a safety hazard for users of the Project, including pedestrian travel through the parking areas of the Project.

8.8.4. Traffic Impact and City Involvement. Notwithstanding any contrary provision of Sections 16.27.28, 16.27.29, 16.27.30, 16.27.31, 16.08.14 of the County Code, or any other provision of the County Code, Owner will not be required to extend the Stub Road or Pimlico Drive through the Project or otherwise provide vehicular access to the Project from Pimlico Drive or from the south side of Lake Creek. The only significant traffic impact of the Project as designed will be on Center Street, which is in the City adjacent to the Property. Therefore, the City will be responsible for evaluating and approving the connections and improvements to the Center Street right of way. Any requirements of the County Code regarding street layouts, the local street plan, traffic control plans, pedestrian access or traffic studies, as they pertain to Center Street, including, without limitation, Sections 14.02, 16.02.12, 16.27.25, as they pertain to Center Street, are hereby determined to not be applicable to the Project.

8.9. Regional Trail. Owner shall install a perimeter walking trail (“**Trail**”) on portions of the exterior boundaries of the Property as shown on the Final Plan. The Trail shall be designated as a public easement. Notwithstanding the foregoing, the easement for the Trail will be subject to the following restriction: the Trail shall be used only for non-motorized, pedestrian, recreational use and for no other purpose. The hours the Trail may be used by the public will not be limited, except as may be reasonably necessary to address temporary hazards, to perform construction or maintenance, or by a County ordinance regulating trails throughout the County. The Trail shall be connected to, and form part of, a larger regional trail intended for the use and benefit of the community as a whole. Owner shall be required to maintain the Trail on Owner’s property or as agreed to by the County to standards which the County employs for similarly situated county facilities. Nevertheless, nothing in this Agreement shall limit the protections available to Owner under Utah Code § 57-14-101, *et seq.* The Owner will be required to provide complete connections with an improved regional trail system, as shown on the Final Plan. The requirements of this

Agreement will control over any contrary provision of Section 16.08.14, 16.21.18 or 16.38 of the County Code. The County acknowledges that the Trail is intended to be used by the public for a recreational purpose as defined in Utah Code § 57-14-102, and that Owner is entitled to the protections of Utah Code § 57-14-101, *et seq.* Further, the use of the Trail will also be deemed a recreational activity under Utah Code § 78B-4-509, and the County will be entitled to the protections of that section. The easement for Trail will be held by County for the use and benefit of the public, and the parties intend to retain for themselves, with respect to the public use of the Trail, all protections afforded under the Utah Governmental Immunity Act.

8.10. Maintenance Obligations Transfer. Portions of the County Code, including Section 16.27.23, contemplate the maintenance obligations for Open Space, trails, recreational facilities, and certain landscaping being transferred to a homeowners association or similar entity, with the County's approval. Thus, Owner will remain responsible for any of the foregoing which are applicable to the Project. The County therefore finds the Project is not subject to provisions for transferring maintenance obligations, and a written transfer agreement. However off-site improvements, as in the case of the required improvements on Pimlico Drive, may be transferred to a homeowners association.

8.11. Signs. The signs and monumentation for the Project, as included in **Exhibit F**, are approved, notwithstanding any contrary provisions of the County Code, including, without limitation Chapter 16.26 and its subparts. The Project will likely attract persons from outside the County—indeed, from outside the State of Utah—including both adherents and non-adherents of the Church of Jesus Christ of Latter-day Saints, to visit the County. Visitors are likely to come for many reasons, including, to tour the Temple before it commences operations (which tours are open to the general public), to participate directly in ceremonies and ordinances held in the Temple, and to support or celebrate with persons who are participating in such ceremonies and ordinances. The County finds that the signs and monumentation for the Project will promote the safety and welfare of people visiting the Temple because it will facilitate them, finding the Temple, and understand the proper way to access the Temple. In addition to the signs identified on **Exhibit F**, the Temple may also feature the exterior inscriptions “House of the Lord” and “Holiness to the Lord,” which have specific religious significance, in accordance with Owner's practice for other temples. Throughout the Project, Owner may install signs to guide vehicular and pedestrian traffic, including signs permitted by the Manual on Uniform Traffic Control Device.

8.12. Land Use Authority. The County Council will serve as the land use authority for the Applications for the Project. The Applications will be heard by the planning commission, who will hold a public hearing on these items in association with this Agreement, and an associated ordinance, and as required by Utah Code § 17-27a-502. The Wasatch County Council will hold a public hearing on the Applications, this Agreement, and the Temple Project Ordinance in conjunction with this Agreement. The Council may approve the proposed Applications, and the Temple Project Ordinance, or they may modify, deny, or continue the matter. Subsequent land use approvals related to the Project will proceed in accordance Applicable Law and this Agreement.



## **SECTION 9. INSURANCE MATTERS.**

9.1. Insurance Required. Owner shall maintain reasonable policies of commercial general liability insurance with respect to any portion of the Project Improvements which will be dedicated to the public.

9.2. Insurance Certificates. Prior to beginning construction on the Project, Owner shall furnish to the County certificates of general liability insurance indicating that the County has been added as a certificate holder with respect to construction of any public portion of the Project Improvements for the Project. Until such time as any public portion of the Project Improvements are completed and approved by the County, such insurance coverage shall not terminate or be canceled or the coverage reduced until after at least thirty (30) days' written notice is given to the County.

## **SECTION 10. NO AGENCY, JOINT VENTURE, OR PARTNERSHIP.**

10.1. Parties' Understanding. It is specifically understood and agreed to by and between the Parties that: (a) Project is a private development; (b) the County has no interest or responsibilities for, or due to, third-parties concerning any improvements until such time, and only until such time, that the County accepts the same pursuant to the provisions of this Agreement; (c) Owner shall have full power over and exclusive control of the Property and Project herein described, subject only to the limitations and obligations of Owner under this Agreement; and (d) the County and Owner hereby renounce the existence of any form of agency relationship, joint venture or partnership express or implied between the County and Owner and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the County and Owner.

## **SECTION 11. MISCELLANEOUS.**

11.1. Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

11.2. Subjection and Subordination. Each person or entity that holds any beneficial, equitable, or other interest or encumbrances in all or any portion of Project at any time hereby automatically, and without the need for any further documentation or consent, subjects and subordinates such interests and encumbrances to this Agreement and all amendments hereof. Each such person or entity agrees to provide written evidence of that subjection and subordination within fifteen (15) days following a written request for the same from, and in a form reasonably satisfactory to the County.

11.3. Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this

Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties.

11.4. Other Necessary Acts. Each Party shall execute and deliver to the other any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement.

11.5. Construction. This Agreement has been reviewed and revised by legal counsel for both the County and Owner, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

11.6. Covenants Running with the Land. The provisions of this Agreement shall constitute real covenants, contract and property rights, and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns, and transferees.

11.7. Waiver. No action taken by any Party shall be deemed to constitute a waiver of compliance by such Party with respect to any representation, warranty, or condition contained in this Agreement. Any waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver by such Party of any subsequent breach.

11.8. Remedies. Either Party may, in addition to any other rights or remedies, institute an equitable action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto, or to obtain any remedies consistent with the foregoing and the purpose of this Agreement.

11.9. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah. Any dispute regarding the Agreement may be resolved in a court of competent jurisdiction in the State of Utah.

11.10. Covenant of Good Faith and Fair Dealing. Each Party shall use its best efforts and take and employ all necessary actions in good faith consistent with this Agreement and Applicable Law to ensure that the rights secured by the other Party through this Agreement can be enjoyed.

11.11. Requests to Modify Use Restrictions. Owner's successors, heirs, assigns, and transferees shall have the right, without the consent or approval of any other person or entity owning property in any other part of the Project, to request that the County modify any zoning classification, use, density, design, setback, size, height, open space, road design, road dedication, traffic configuration, site plan, or other use restrictions associated with that portion of the Project to which the successor, heir, assign, or transferee holds title. This Section grants no additional rights besides those granted under Applicable Law.

11.12. Representations. Each Party hereby represents and warrants to each other Party that the following statements are true, complete and not misleading as regards the representing warranting Party: (a) such Party is duly organized, validly existing and in good standing under the laws of the state of its organization; (b) such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder; (c) the individual(s) executing this Agreement on behalf of such Party do so with the full authority of the Party that those individual(s) represent; and (d) this Agreement constitutes the legal, valid and binding obligation of such Party enforceable in accordance with its terms, subject to the rules of bankruptcy, moratorium and equitable principles.

11.13. No Third-Party Beneficiaries. This Agreement is between the County and Owner. No other person or entity shall be deemed a third-party beneficiary or have any rights under this Agreement.

## **SECTION 12. NOTICES.**

12.1. Manner of Giving Notice. Any notice or communication required hereunder between the County and Owner must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of: (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to the County:

WASATCH COUNTY MANAGER  
Attn: Dustin Grabau  
25 N Main Street  
Heber City, Utah 84032

PLANNING AND ZONING  
DEPARTMENT

Attn: Doug Smith, Director  
35 South 500 East  
Heber City, Utah 84032

With Copies to:  
WASATCH COUNTY ATTORNEY

If to Owner:

CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS  
Attn: David A. Channer, Assoc. General  
Counsel

50 E. North Temple Street, Room 288W  
Salt Lake City, Utah 84150-0302

With Copies to:  
KIRTON | McCONKIE  
Attn: Loyal C. Hulme and Daniel C.  
Dansie  
50 E. South Temple, Suite 400  
Salt Lake City, Utah 84111

Attn: Scott Sweat and Jon Woodard  
805 West 100 South  
Heber City, UT 84032

### **SECTION 13. CONCLUDING PROVISIONS.**

13.1. Integration Clause. Unless otherwise noted herein, this Agreement is the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of the County and Owner. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

Exhibit A - Legal Description of the Property

Exhibit B – Final Plan

Exhibit C – Conditions of Approval

Exhibit D – Design Guidelines

Exhibit E – Stormwater Infrastructure Maintenance Recommendations

Exhibit F – Approved Signs

Exhibit G – Fire Access

13.2. Recording. Following the Effective Date, the County Clerk shall cause to be recorded, at Owner's expense, an executed copy of this Agreement in the real property records of the office of the Wasatch County Recorder.

[End of Agreement. Balance of page left blank intentionally.]





**OWNER:**  
THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation sole

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF UTAH )  
 )  
 ) :SS  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_, who executed the foregoing instrument as \_\_\_\_\_ of the Church of Jesus Christ of Latter-day Saints.

NOTARY PUBLIC

Residing at: \_\_\_\_\_

## **EXHIBIT A**

### [Legal Description of Property]

A PARCEL OF LAND SITUATE IN THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE & MERIDIAN, WASATCH COUNTY, UTAH. THE BOUNDARIES OF SAID PARCEL ARE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE TOWNSHIP LINE, SAID POINT IS 887.22 FEET N.89°48'22"E. ALONG SAID TOWNSHIP LINE FROM THE NORTHWEST CORNER OF SAID SECTION 4; (BASIS OF BEARING IS S.00°12'01"E. ALONG THE SECTION LINE BETWEEN THE FOUND MONUMENTS REPRESENTING THE NORTHWEST CORNER AND THE WEST QUARTER CORNER OF SAID SECTION 4); AND RUNNING THENCE ALONG SAID TOWNSHIP LINE N.89°48'22"E. 386.80 FEET; THENCE S.00°05'13"E. 19.76 FEET TO A POINT IN AN EXISTING WIRE FENCE LINE; THENCE ALONG SAID EXISTING WIRE FENCE LINE N.89°38'39"E. 886.24 FEET TO THE EXTENSION OF THE EASTERLY BOUNDARY LINE OF PROPERTY DESCRIBED IN QUIT CLAIM DEED IN FAVOR OF LOWER FIELD BOYD L.L.C. RECORDED AS ENTRY NO. 425030 IN BOOK 1160 AT PAGE 389 IN THE OFFICE OF THE WASATCH COUNTY RECORDER, SAID POINT IS ALSO THE EXTENSION OF AN EXISTING CONCRETE FENCE LINE; THENCE ALONG SAID EASTERLY BOUNDARY LINE AND ITS EXTENSION S.00°11'38"E. 206.56 FEET TO A POINT IN THE NORTHERLY BOUNDARY LINE OF BEAUFONTAINE AT SPRING LAKE PHASE 2 P.U.D. (BEAUFONTAINE) RECORDED AS ENTRY NO. 402104 IN BOOK 1107 AT PAGE 730 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG SAID NORTHERLY BOUNDARY LINE N.89°21'13"W. 151.53 FEET TO THE NORTHWEST CORNER OF SAID (BEAUFONTAINE); THENCE ALONG THE WESTERLY BOUNDARY LINE OF SAID (BEAUFONTAINE) S.02°42'20"W. 365.54 FEET TO THE SOUTHWEST CORNER OF SAID (BEAUFONTAINE), SAID POINT IS ALSO IN THE NORTHERLY BOUNDARY LINE OF TRIPLE CROWN SUBDIVISION PLAT A RECORDED AS ENTRY NO. 325405 IN BOOK 948 AT PAGE 1946-2015 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG SAID NORTHERLY BOUNDARY LINE AND ITS EXTENSION THE FOLLOWING THREE (3) COURSES: 1) S.89°36'38"W. 717.30 FEET, 2) S.00°05'13"E. 106.84 FEET AND 3) S.89°54'47"W. 606.00 FEET TO THE SOUTHWEST CORNER OF THE PROPERTY DESCRIBED IN GENERAL WARRANTY DEED IN FAVOR OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS RECORDED AS ENTRY NO. 524740 IN BOOK 1423 AT PAGE 365 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG THE WESTERLY BOUNDARY LINE OF SAID DESCRIBED PROPERTY N.17°24'47"E. 728.97 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 18.17 ACRES IN AREA, MORE OR LESS.

**EXHIBIT B**

[Final Plan]

**[To be Added Prior to Final Approval by County Council.]**



**EXHIBIT C**

[Conditions of Approval]

**[To be Added Prior to Final Approval by County Council.]**

## **EXHIBIT D**

[Design Guidelines]

1. The Temple will have a granite stone exterior which meets the requirements of the Exterior Lighting Ordinance.
2. The Temple will also have decorative metal exterior components.
3. The Temple will have metal framed windows with glazing.
4. Architectural design elements of Temple will be substantially similar to the image shown below.
5. The auxiliary / maintenance building will have a honed CMU exterior.

**[Insert Image of Temple Prior to Final Approval by County Council.]**

## **Exhibit E**

### **[Stormwater Infrastructure Maintenance Recommendations]**

#### **Post Construction Storm Water Management Plan**

##### **Heber Valley Temple: Wasatch County**

These Commercial Best Management Practices (BMPs) are measures and/or practices to be maintained by the property owner or operator to prevent illicit discharges, pollutants, and other contaminants from entering the county storm water system. These measures and practices are to be implemented upon completion of construction activities, to be conducted and maintained in perpetuity:

- \* Inspection and cleaning of Pretreatment boxes and catch basins. Pretreatment and catch basin are to be inspected periodically and are to be cleaned at least once each year. Storm drain manholes, flap gates, and the stream outfall will be inspected each fall and spring. Clear debris as required from the systems.
- \* Parking area cleaning and sweeping - Parking lots are to be swept from time to time as deemed necessary by Owner.
- \* Waste management and disposal- Standard trash and recycling materials will be disposed of in appropriate waste bins as required by applicable law. Regular cleaning of trash bin areas will be completed by the Owner.
- \* Landscape maintenance - Owner is responsible for general landscape maintenance. The landscape maintenance will consist primarily of watering and fertilizing. Logs of fertilization will be maintained by the Owner.
- \* Employee training - Property owner is to provide or require training in storm water quality management and required BMPs. Employee training in storm water quality management and required BMPs shall be integrated with any other existing employee training programs.
- \* Inspection of the isolator row of the underground detention system will be in accordance with the system manufacture recommendations during the first year and subsequent years of operation. Periodic cleaning of the isolator row will be completed as required to remove sediment in the isolator row. Cleaning will be in accordance with the system manufacture recommendations. The operations and maintenance of the rest of the underground system will also be in accordance with the system.
- \* Record of inspection and maintenance- The current year records of inspection and maintenance shall be kept by Owner and made available for review by county and/or state officials upon reasonable request. An inspection of the site may be conducted by the county annually, or at such reasonable lesser intervals as may be deemed necessary and appropriate.

The objective of the plan is to maintain the storm drainage and underground detention facilities as designed.

Heber Valley Temple.

# STORMWATER MAINTENANCE AGREEMENT INSPECTION FORM

Site Name:			Date of Evaluation			
Site Address:						
Facility Contact Information						
	NAMES			PHONE #'S		E-MAIL
CONTACT:						
CONTACT:						
BUSINESS TYPE:      INSTITUTION <input type="checkbox"/> COMMERCIAL x                  INDUSTRIAL <input type="checkbox"/>						
Items Inspected		Checked		Maintenance		Inspector
		Yes	No	Req'd	Not Req'd	Observations and Remarks
1.Review Stormwater site plan						
2. Dumping Evidence						
3. Spill Evidence						
4. General Site						
5. Other Pollution Sources						
6.General Maintenance Status						
Inlets						
Conveyance Systems						
Manholes						
Structural Devices						
Stormwater Storage						
Parking/Pavements						
Waste Collection						
Landscaping						
Flap Gates, SD Outfall						
7.Other Site Items						
Notes:						
Inspector: _____ Site Contact: _____						
Signature		Title		Signature		Date



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## Operations and Maintenance Guidelines

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For general information on our other products and services, please contact our offices within the United States at (800)428-5832, (203)775-4416 ext. 202, or e-mail us at [custservice@cultec.com](mailto:custservice@cultec.com).

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Doc ID: CULG008 05-17  
May 2017

*These instructions are for single-layer traffic applications only. For multi-layer applications, contact CULTEC.  
All illustrations and photos shown herein are examples of typical situations. Be sure to follow the engineer's drawings.  
Actual designs may vary.*





*This manual contains guidelines recommended by CULTEC, Inc. and may be used in conjunction with, but not to supersede, local regulations or regulatory authorities. OSHA Guidelines must be followed when inspecting or cleaning any structure.*

## Introduction

The CULTEC Subsurface Stormwater Management System is a high-density polyethylene (HDPE) chamber system arranged in parallel rows surrounded by washed stone. The CULTEC chambers create arch-shaped voids within the washed stone to provide stormwater detention, retention, infiltration, and reclamation. Filter fabric is placed between the native soil and stone interface to prevent the intrusion of fines into the system. In order to minimize the amount of sediment which may enter the CULTEC system, a sediment collection device (stormwater pretreatment device) is recommended upstream from the CULTEC chamber system. Examples of pretreatment devices include, but are not limited to, an appropriately sized catch basin with sump, pretreatment catchment device, oil grit separator, or baffled distribution box. Manufactured pretreatment devices may also be used in accordance with CULTEC chambers. Installation, operation, and maintenance of these devices shall be in accordance with manufacturer's recommendations. Almost all of the sediment entering the stormwater management system will be collected within the pretreatment device.

Best Management Practices allow for the maintenance of the preliminary collection systems prior to feeding the CULTEC chambers. The pretreatment structures shall be inspected for any debris that will restrict inlet flow rates. Outfall structures, if any, such as outlet control must also be inspected for any obstructions that would restrict outlet flow rates. OSHA Guidelines must be followed when inspecting or cleaning any structure.

## Operation and Maintenance Requirements

### I. Operation

CULTEC stormwater management systems shall be operated to receive only stormwater run-off in accordance with applicable local regulations. CULTEC subsurface stormwater management chambers operate at peak performance when installed in series with pretreatment. Pretreatment of suspended solids is superior to treatment of solids once they have been introduced into the system. The use of pretreatment is adequate as long as the structure is maintained and the site remains stable with finished impervious surfaces such as parking lots, walkways, and pervious areas are properly maintained. If there is to be an unstable condition, such as improvements to buildings or parking areas, all proper silt control measures shall be implemented according to local regulations.

### II. Inspection and Maintenance Options

- A. The CULTEC system may be equipped with an inspection port located on the inlet row. The inspection port is a circular cast box placed in a rectangular concrete collar. When the lid is removed, a 6-inch (150 mm) pipe with a screw-in plug will be exposed. Remove the plug. This will provide access to the CULTEC Chamber row below. From the surface, through this access, the sediment may be measured at this location. A stadia rod may be used to measure the depth of sediment if any in this row. If the depth of sediment is in excess of 3 inches (76 mm), then this row should be cleaned with high pressure water through a culvert cleaning nozzle. This would be carried out through an upstream manhole or through the CULTEC StormFilter Unit (or other pretreatment device). CCTV inspection of this row can be deployed through this access port to determine if any sediment has accumulated in the inlet row.
- B. If the CULTEC bed is not equipped with an inspection port, then access to the inlet row will be through an upstream manhole or the CULTEC StormFilter.
  1. **Manhole Access**  
This inspection should only be carried out by persons trained in confined space entry and sewer inspection services. After the manhole cover has been removed a gas detector must be lowered into the manhole to ensure that there are not high concentrations of toxic gases present. The inspector should be lowered into the manhole with the proper safety equipment as per OSHA requirements. The inspector may be able to observe sediment from this location. If this is not possible, the inspector will need to deploy a CCTV robot to permit viewing of the sediment.

For more information, contact CULTEC at (203) 775-4416 or visit [www.cultec.com](http://www.cultec.com).

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## Operations and Maintenance Guidelines

### 2. StormFilter Access

Remove the manhole cover to allow access to the unit. Typically a 30-inch (750 mm) pipe is used as a riser from the StormFilter to the surface. As in the case with manhole access, this access point requires a technician trained in confined space entry with proper gas detection equipment. This individual must be equipped with the proper safety equipment for entry into the StormFilter. The technician will be lowered onto the StormFilter unit. The hatch on the unit must be removed. Inside the unit are two filters which may be removed according to StormFilter maintenance guidelines. Once these filters are removed the inspector can enter the StormFilter unit to launch the CCTV camera robot.

- C. The inlet row of the CULTEC system is placed on a polyethylene liner to prevent scouring of the washed stone beneath this row. This also facilitates the flushing of this row with high pressure water through a culvert cleaning nozzle. The nozzle is deployed through a manhole or the StormFilter and extended to the end of the row. The water is turned on and the inlet row is back-flushed into the manhole or StormFilter. This water is to be removed from the manhole or StormFilter using a vacuum truck.

### III. Maintenance Guidelines

The following guidelines shall be adhered to for the operation and maintenance of the CULTEC stormwater management system:

- A. The owner shall keep a maintenance log which shall include details of any events which would have an effect on the system's operational capacity.
- B. The operation and maintenance procedure shall be reviewed periodically and changed to meet site conditions.
- C. Maintenance of the stormwater management system shall be performed by qualified workers and shall follow applicable occupational health and safety requirements.
- D. Debris removed from the stormwater management system shall be disposed of in accordance with applicable laws and regulations.

### IV. Suggested Maintenance Schedules

#### A. Minor Maintenance

The following suggested schedule shall be followed for routine maintenance during the regular operation of the stormwater system:

Frequency	Action
Monthly in first year	Check inlets and outlets for clogging and remove any debris, as required.
Spring and Fall	Check inlets and outlets for clogging and remove any debris, as required.
One year after commissioning and every third year following	Check inlets and outlets for clogging and remove any debris, as required.

#### B. Major Maintenance

The following suggested maintenance schedule shall be followed to maintain the performance of the CULTEC stormwater management chambers. Additional work may be necessary due to insufficient performance and other issues that might be found during the inspection of the stormwater management chambers. (See table on next page)





	Frequency	Action
Inlets and Outlets	Every 3 years	<ul style="list-style-type: none"> <li>Obtain documentation that the inlets, outlets and vents have been cleaned and will function as intended.</li> </ul>
	Spring and Fall	<ul style="list-style-type: none"> <li>Check inlet and outlets for clogging and remove any debris as required.</li> </ul>
CULTEC Stormwater Chambers	2 years after commissioning	<ul style="list-style-type: none"> <li>Inspect the interior of the stormwater management chambers through inspection port for deficiencies using CCTV or comparable technique.</li> <li>Obtain documentation that the stormwater management chambers and feed connectors will function as anticipated.</li> </ul>
	9 years after commissioning every 9 years following	<ul style="list-style-type: none"> <li>Clean stormwater management chambers and feed connectors of any debris.</li> <li>Inspect the interior of the stormwater management structures for deficiencies using CCTV or comparable technique.</li> <li>Obtain documentation that the stormwater management chambers and feed connectors have been cleaned and will function as intended.</li> </ul>
	45 years after commissioning	<ul style="list-style-type: none"> <li>Clean stormwater management chambers and feed connectors of any debris.</li> <li>Determine the remaining life expectancy of the stormwater management chambers and recommended schedule and actions to rehabilitate the stormwater management chambers as required.</li> <li>Inspect the interior of the stormwater management chambers for deficiencies using CCTV or comparable technique.</li> <li>Replace or restore the stormwater management chambers in accordance with the schedule determined at the 45-year inspection.</li> <li>Attain the appropriate approvals as required.</li> <li>Establish a new operation and maintenance schedule.</li> </ul>
Surrounding Site	Monthly in 1 <sup>st</sup> year	<ul style="list-style-type: none"> <li>Check for depressions in areas over and surrounding the stormwater management system.</li> </ul>
	Spring and Fall	<ul style="list-style-type: none"> <li>Check for depressions in areas over and surrounding the stormwater management system.</li> </ul>
	Yearly	<ul style="list-style-type: none"> <li>Confirm that no unauthorized modifications have been performed to the site.</li> </ul>

For additional information concerning the maintenance of CULTEC Subsurface Stormwater Management Chambers, please contact CULTEC, Inc. at 1-800-428-5832.

For more information, contact CULTEC at (203) 775-4416 or visit [www.cultec.com](http://www.cultec.com).

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## **WQMP Operation & Maintenance (O&M) Plan**

Project Name: \_\_\_\_\_

### **Prepared for:**

Project Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State Zip: \_\_\_\_\_

### **Prepared on:**

Date: \_\_\_\_\_



This O&M Plan describes the designated responsible party for implementation of this WQMP, including: operation and maintenance of all the structural BMP(s), conducting the training/educational program and duties, and any other necessary activities. The O&M Plan includes detailed inspection and maintenance requirements for all structural BMPs, including copies of any maintenance contract agreements, manufacturer's maintenance requirements, permits, etc.

#### 8.1.1 Project Information

Project name	
Address	
City, State Zip	
Site size	
List of structural BMPs, number of each	
Other notes	

#### 8.1.2 Responsible Party

The responsible party for implementation of this WQMP is:

Name of Person or HOA Property Manager	
Address	
City, State Zip	
Phone number	
24-Hour Emergency Contact number	
Email	

#### 8.1.3 Record Keeping

Parties responsible for the O&M plan shall retain records for at least 5 years.

All training and educational activities and BMP operation and maintenance shall be documented to verify compliance with this O&M Plan. A sample Training Log and Inspection and Maintenance Log are included in this document.

#### 8.1.4 Electronic Data Submittal

This document along with the Site Plan and Attachments shall be provided in PDF format. AutoCAD files and/or GIS coordinates of BMPs shall also be submitted to the City.

For more information, contact CULTEC at (203) 775-4416 or visit [www.cultec.com](http://www.cultec.com).

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### Appendix \_\_\_\_

#### BMP SITE PLAN

Site plan is preferred on minimum 11" by 17" colored sheets, as long as legible.





## BMP OPERATION & MAINTENANCE LOG

Project Name: \_\_\_\_\_

Today's Date: \_\_\_\_\_

Name of Person Performing Activity (Printed): \_\_\_\_\_

Signature: \_\_\_\_\_

BMP Name (As Shown in O&M Plan)	Brief Description of Implementation, Maintenance, and Inspection Activity Performed

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## Operations and Maintenance Guidelines

### Minor Maintenance

Frequency		Action
<b>Monthly in first year</b>		Check inlets and outlets for clogging and remove any debris, as required.
		Notes
<input type="checkbox"/> Month 1	Date:	
<input type="checkbox"/> Month 2	Date:	
<input type="checkbox"/> Month 3	Date:	
<input type="checkbox"/> Month 4	Date:	
<input type="checkbox"/> Month 5	Date:	
<input type="checkbox"/> Month 6	Date:	
<input type="checkbox"/> Month 7	Date:	
<input type="checkbox"/> Month 8	Date:	
<input type="checkbox"/> Month 9	Date:	
<input type="checkbox"/> Month 10	Date:	
<input type="checkbox"/> Month 11	Date:	
<input type="checkbox"/> Month 12	Date:	
<b>Spring and Fall</b>		Check inlets and outlets for clogging and remove any debris, as required.
		Notes
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<b>One year after commissioning and every third year following</b>		Check inlets and outlets for clogging and remove any debris, as required.
		Notes
<input type="checkbox"/> Year 1	Date:	
<input type="checkbox"/> Year 4	Date:	
<input type="checkbox"/> Year 7	Date:	
<input type="checkbox"/> Year 10	Date:	
<input type="checkbox"/> Year 13	Date:	
<input type="checkbox"/> Year 16	Date:	
<input type="checkbox"/> Year 19	Date:	
<input type="checkbox"/> Year 22	Date:	

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## Major Maintenance

Frequency		Action
Inlets and Outlets	<b>Every 3 years</b>	Obtain documentation that the inlets, outlets and vents have been cleaned and will function as intended.
		Notes
	<input type="checkbox"/> Year 1	Date:
	<input type="checkbox"/> Year 4	Date:
	<input type="checkbox"/> Year 7	Date:
	<input type="checkbox"/> Year 10	Date:
	<input type="checkbox"/> Year 13	Date:
	<input type="checkbox"/> Year 16	Date:
	<input type="checkbox"/> Year 19	Date:
	<input type="checkbox"/> Year 22	Date:
	<b>Spring and Fall</b>	Check inlet and outlets for clogging and remove any debris, as required.
		Notes
	<input type="checkbox"/> Spring	Date:
	<input type="checkbox"/> Fall	Date:
	<input type="checkbox"/> Spring	Date:
	<input type="checkbox"/> Fall	Date:
	<input type="checkbox"/> Spring	Date:
	<input type="checkbox"/> Fall	Date:
	<input type="checkbox"/> Spring	Date:
	<input type="checkbox"/> Fall	Date:
	<input type="checkbox"/> Spring	Date:
	<input type="checkbox"/> Fall	Date:
CULTEC Stormwater Chambers	<b>2 years after commissioning</b>	<input type="checkbox"/> Inspect the interior of the stormwater management chambers through inspection port for deficiencies using CCTV or comparable technique. <input type="checkbox"/> Obtain documentation that the stormwater management chambers and feed connectors will function as anticipated.
		Notes
	<input type="checkbox"/> Year 2	Date:

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## Operations and Maintenance Guidelines

### Major Maintenance

Frequency		Action
CULTEC Stormwater Chambers	<b>9 years after commissioning every 9 years following</b>	<ul style="list-style-type: none"><li>□ Clean stormwater management chambers and feed connectors of any debris.</li><li>□ Inspect the interior of the stormwater management structures for deficiencies using CCTV or comparable technique.</li><li>□ Obtain documentation that the stormwater management chambers and feed connectors have been cleaned and will function as intended.</li></ul>
	Notes	
	□ Year 9	Date:
	□ Year 18	Date:
	□ Year 27	Date:
	□ Year 36	Date:
	<b>45 years after commissioning</b>	<ul style="list-style-type: none"><li>□ Clean stormwater management chambers and feed connectors of any debris.</li><li>□ Determine the remaining life expectancy of the stormwater management chambers and recommended schedule and actions to rehabilitate the stormwater management chambers as required.</li><li>□ Inspect the interior of the stormwater management chambers for deficiencies using CCTV or comparable technique.</li><li>□ Replace or restore the stormwater management chambers in accordance with the schedule determined at the 45-year inspection.</li><li>□ Attain the appropriate approvals as required.</li><li>□ Establish a new operation and maintenance schedule.</li></ul>
	Notes	
	□ Year 45	Date:

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## Major Maintenance

Frequency		Action	
Surrounding Site	<b>Monthly in 1<sup>st</sup> year</b>		
	<input type="checkbox"/> Check for depressions in areas over and surrounding the stormwater management system.		
	Notes		
	<input type="checkbox"/> Month 1	Date:	
	<input type="checkbox"/> Month 2	Date:	
	<input type="checkbox"/> Month 3	Date:	
	<input type="checkbox"/> Month 4	Date:	
	<input type="checkbox"/> Month 5	Date:	
	<input type="checkbox"/> Month 6	Date:	
	<input type="checkbox"/> Month 7	Date:	
	<input type="checkbox"/> Month 8	Date:	
	<input type="checkbox"/> Month 9	Date:	
	<input type="checkbox"/> Month 10	Date:	
	<input type="checkbox"/> Month 11	Date:	
	<input type="checkbox"/> Month 12	Date:	
	<b>Spring and Fall</b>		
	<input type="checkbox"/> Check for depressions in areas over and surrounding the stormwater management system.		
	Notes		
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<b>Yearly</b>		
<input type="checkbox"/> Confirm that no unauthorized modifications have been performed to the site.			
Notes			
<input type="checkbox"/> Year 1	Date:		
<input type="checkbox"/> Year 2	Date:		
<input type="checkbox"/> Year 3	Date:		
<input type="checkbox"/> Year 4	Date:		
<input type="checkbox"/> Year 5	Date:		
<input type="checkbox"/> Year 6	Date:		
<input type="checkbox"/> Year 7	Date:		

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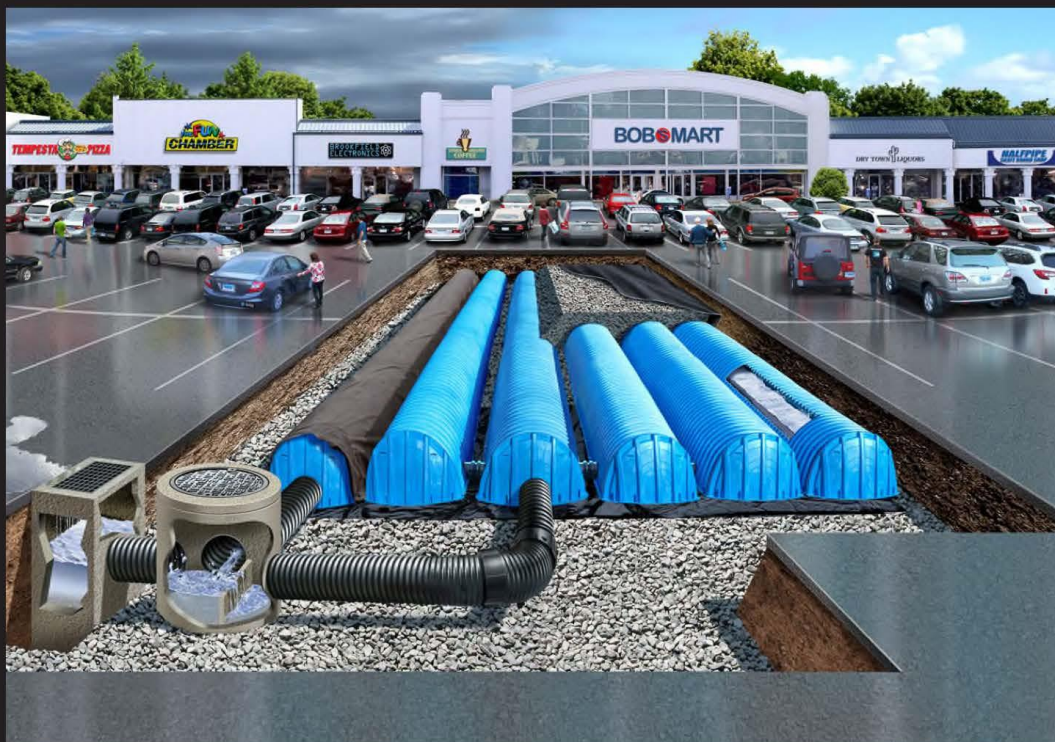
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CULG008 05-17

# CULTEC SEPARATOR™ ROW

## WATER QUALITY SYSTEM



## OPERATION & MAINTENANCE GUIDE

### FOR CULTEC STORMWATER MANAGEMENT SYSTEMS



STORMWATER MANAGEMENT SOLUTIONS



CULTEC





## CULTEC SEPARATOR™ ROW OPERATION & MAINTENANCE GUIDE

### Published by

**CULTEC, Inc.**

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For technical support, please call (203)775-4416 ext. 203 or e-mail [tech@cultec.com](mailto:tech@cultec.com).

Visit [www.cultec.com/downloads.html](http://www.cultec.com/downloads.html) for Product Downloads and CAD details.

Doc ID: CLT043 02-22

Feb 2022



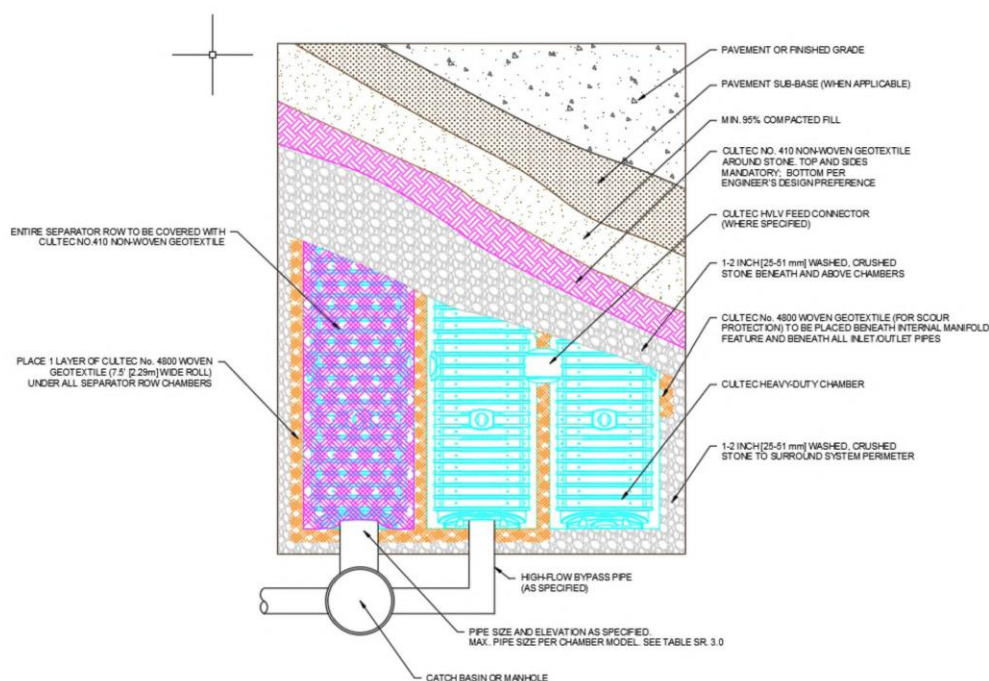
## Introduction

CULTEC's Separator™ Row is an inexpensive means of removing Total Suspended Solids from the CULTEC chamber system, as well as providing easier access for inspection and maintenance. The Separator Row is designed to capture the First Flush of a rain event and is typically included as part of the "Treatment Train" for water quality.

The CULTEC Separator Row is a row of CULTEC Contactor or Recharger Chambers that are surrounded on all sides by filter fabric. One layer of CULTEC No. 4800™ Woven Geotextile are placed between the clean foundation stone and the chamber feet. The chambers are then completely wrapped with CULTEC No. 410™ non-woven geotextile. This configuration is designed to trap any sediment and/or debris that may pass through the upstream water-quality structures and into the chamber system.

A manhole is typically located adjacent to the separator row for ease of inspection and maintenance. This manhole is placed upstream of the system and can include a high-flow bypass pipe to pass peak-flows onto adjacent rows of chambers. The upstream manhole is designed with a sump to trap heavier sediment and allow for proper cleaning of the Separator Row. A JetVac process with a high pressure water nozzle is introduced down the Separator Row via the access manhole to clean all sediment and debris from the Separator Row. Captured pollutants are flushed into the sumped access manhole for vacuuming, and the process is repeated until the Separator Row is completely free of sediment and debris.

The Separator Row performance has been tested and verified to the protocols and procedures as defined by Environmental Technology Verification (ETV) Canada to achieve 80% TSS removal.



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# CULTEC SEPARATOR™ ROW OPERATION & MAINTENANCE GUIDE

## Design

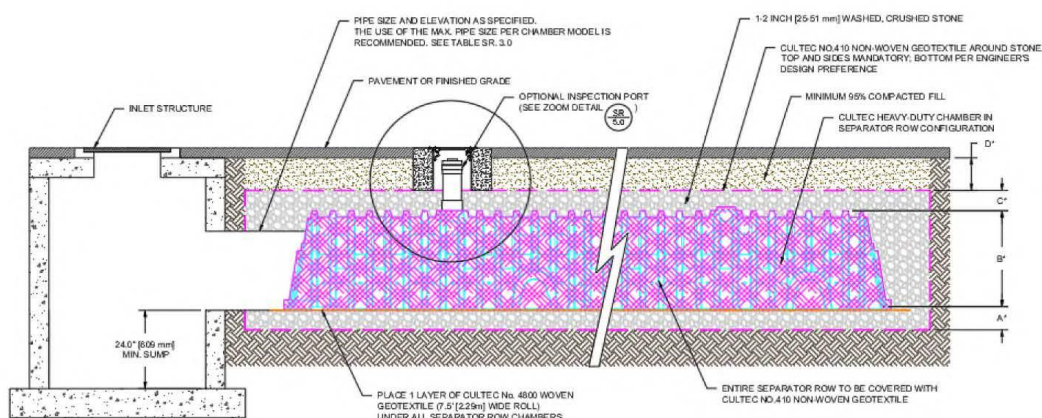
There is no single design to achieve a high level of water quality. The CULTEC Separator Row should be designed as part of an overall best management practices water quality system. Pre-treatment devices such as sump catch basins, inlet baffles and proprietary oil-grit separators and filter systems can all be incorporated upstream of the CULTEC Separator Row. Sumped access/diversion manholes should be installed directly upstream of the Separator Row.

The following is a list of recommended design practices to ensure proper maintenance for the life of the system:

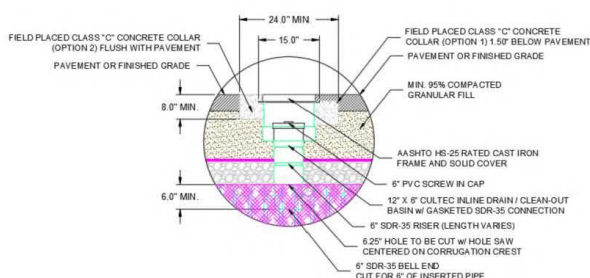
- Install summed access/diversion manholes, including a minimum 24" (600 mm) sump, directly upstream of the Separator Row.

- Include a high-flow bypass pipe to divert peak flows that exceed the capacity of the Separator Row to adjacent rows.
- Connect the access manhole to the Separator Row with the largest diameter pipe allowable based on the CULTEC chamber model used.
- Maintain a minimum distance between the access manhole and the Separator Row to promote efficient maintenance.
- Include at least one inspection port per Separator Row for periodic inspection.

Note: Typical JetVac maintenance reels have a maximum of 400 feet (121.9 m) of available hose. Consider this when designing the length of the CULTEC Separator Rows.



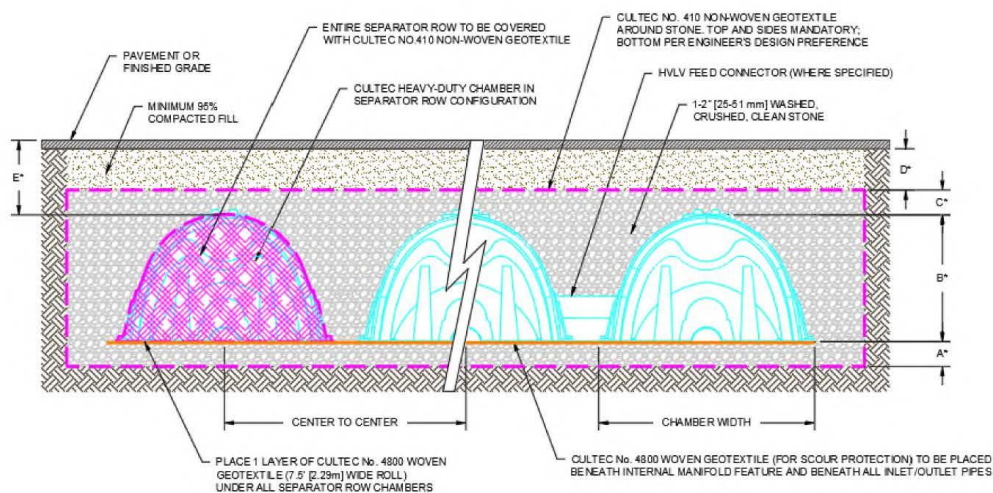
**\*SEE SR 3.0 - CROSS SECTION TABLE REFERENCE**



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\*SEE SR 3.0 - CROSS SECTION TABLE REFERENCE

**Table SR 3.0**

Description	Contactor 100HD	Recharger 150XLHD	Recharger 280HD	Recharger 330XLHD	Recharger 360HD	Recharger 902HD
A Min. depth of stone base	6" 152 mm	6" 152 mm	6" 152 mm	6" 152 mm	6" 152 mm	9" 229 mm
B Chamber height	12.5" 318 mm	18.5" 470 mm	26.5" 673 mm	30.5" 775 mm	36" 914 mm	48" 1219 mm
C Min. depth of stone required above units for traffic applications	6" 152 mm	6" 152 mm	6" 152 mm	6" 152 mm	6" 152 mm	12" 305 mm
D Min. depth required of 95% compacted fill for paved traffic application	8" 203 mm	8" 203 mm	8" 203 mm	10" 254 mm	12" 305 mm	12" 305 mm
E Max. depth of cover allowed above crown of chamber	12' 3.65 m	12' 3.65 m	12' 3.65 m	12' 3.65 m	12' 3.65 m	8.5' 2.59 m
Max. allowable pipe size into chamber end wall/end cap	10" 250 mm	12" 300 mm	18" 450 mm	24" 600 mm	24" 600 mm	24" 600 mm

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## CULTEC SEPARATOR™ ROW OPERATION & MAINTENANCE GUIDE

### Inspection and Maintenance

CULTEC recommends inspection of the Separator Row to be performed every six months for the first year of service. Future inspection frequency can be adjusted based upon previous inspection observations. However annual inspections are recommended. Inspection of the Separator Row can be achieved via an inspection port riser installed during construction. This inspection port riser will connect the top of the Separator Row chambers to finished grade with a removable lid. Alternatively the Separator Row may be inspected via the manhole(s) located at the end(s) of the Separator Row. However this method of inspection requires confined space entry. If entry into the manhole is required, all local and OSHA rules for confined space entries must be strictly followed.

To inspect:

- Remove the inspection port lid from the floor box frame.



High pressure water nozzle

- Remove the riser pipe cap.
- With a flashlight and stadia rod, measure the depth of sediment.
- Record results in a maintenance log.
- When depth of sediment exceeds 3" (76 mm), use the JetVac procedure described below.

The JetVac process utilizes a high pressure water nozzle controlled from the surface. The high pressure nozzle is introduced down the Separator Row via the access manhole(s). The high pressure water cleans all sediment and debris from the Separator Row as the nozzle is retrieved. Captured pollutants are flushed into the sumped access manhole for vacuuming. This process is repeated until the Separator Row is completely free of sediment and debris. A small diameter culvert cleaning nozzle is recommended for this procedure.



Cleaning Separator Row and pipes with high pressure water nozzle



SEPARATOR ROW: Separator Row prior to cleaning



ADJACENT ROW: When the Separator Row is working properly, the adjacent rows will not show signs of sediment.

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RETENTION • DETENTION • INFILTRATION • WATER QUALITY

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### Inspection and Maintenance Record

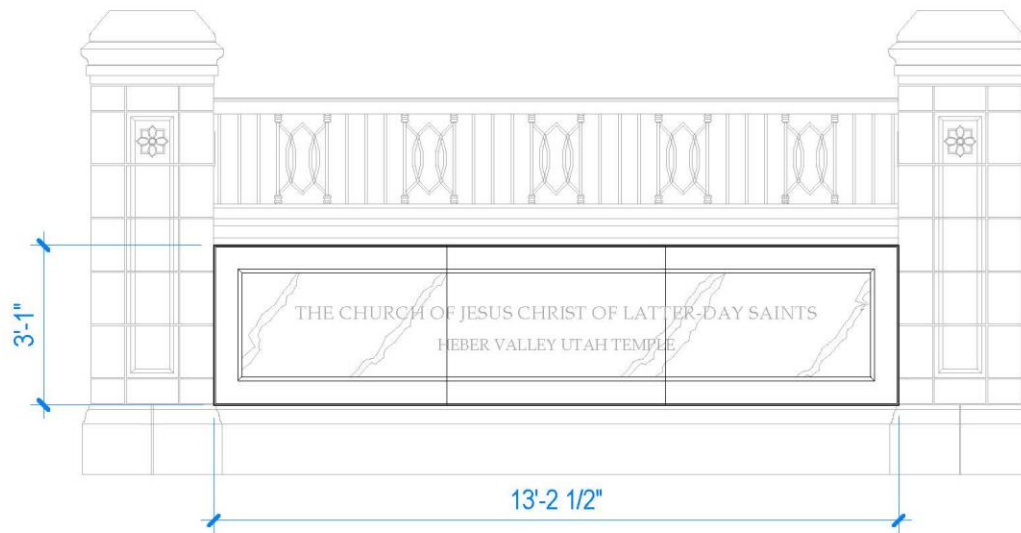
Date	Mode of Access	Frequency	Depth of Sediment	Actions	Expenses	Inspector	Notes
Ex.	Inspection Port	Semi-annually	2"	Measure sediment depth with stadia rod. Visually inspect	\$100	DPG	Depth of Sediment was measured via Northeast Inspection Port Adjacent to MH-1. Sediment depth was found to be 2". No further action required at this time.
Ex.	Access Manhole	Annually					

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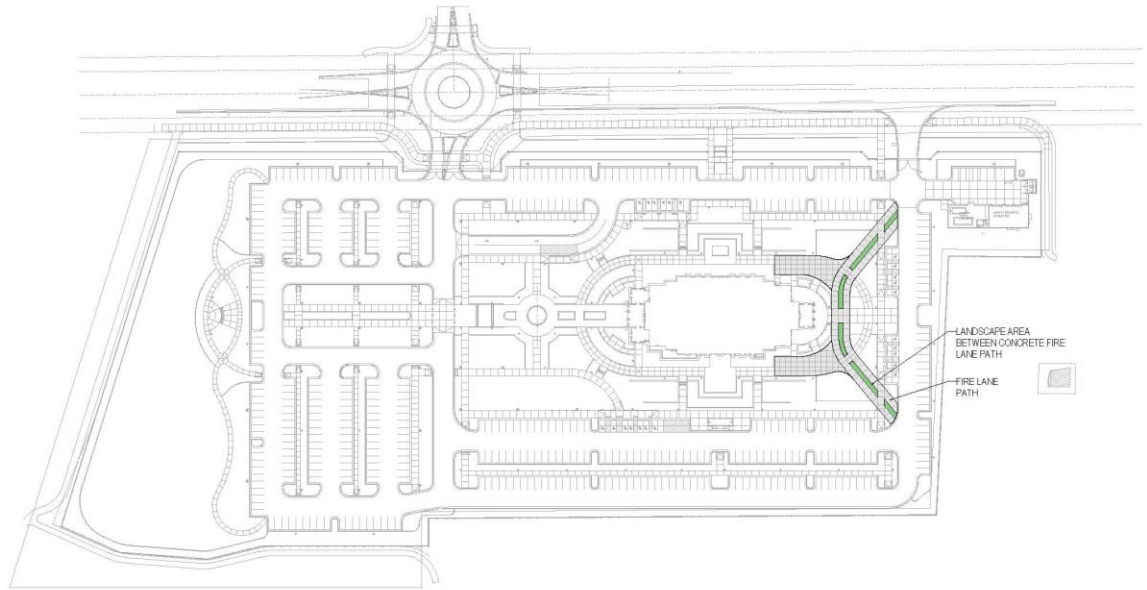
**Exhibit F**

[Approved Signs]



## **Exhibit G**

[Fire Access]





# Wasatch County Planning Commission October 25, 2023



## Item(s) #1, #2, and #3

### Core Architecture and the Church of Jesus Christ of Latter Day Saints

- 
- Ordinance 23-16 - Legislative Development Agreement
  - Final Subdivision Plat Approval
  - Site Plan Approval



# WASATCH COUNTY

## Planning Commission Staff Report Legislative Development Agreement, Final Plat and Final Site Plan approval

**ITEM(s) 1, 2 and 3** Jason Sandburg, representing Core Architecture and the Church of Jesus Christ of Latter Day Saints, requests consideration by the County legislative body for approval of ordinance 23-16 enacting, approving, adopting or authorizing the execution of a legislative development agreement in order to address aspects of the temple project. An associated MOU with the County, the Church and Heber City regarding improvements on Center Street will also be included as an exhibit to the legislative development agreement. (Jon Woodard and Doug Smith)

Jason Sandburg, representing Core Architecture and the Church of Jesus Christ of Latter Day Saints, requests Final Subdivision plat approval for the Heber Valley Utah Temple. The subdivision contains one lot and dedicates property for improvements on Center Street. The parcel is ~18.17 acres located at ~1400 East Center Street in Township 4 South, Range 5 East in the Residential Agriculture 1 (RA-1) zone. (DEV-7924; Doug Smith)

Jason Sandburg, representing Core Architecture and the Church of Jesus Christ of Latter Day Saints, requests Site Plan approval for the Heber Valley Utah Temple, a proposed religious temple consisting of a ~88,000 sf temple, ~ 2,000 sf grounds building, parking, landscaping and associated improvements on ~18 acres located at ~1400 East Center Street in Township 4 South, Range 5 East in the Residential Agriculture 1 (RA-1) zone. (DEV-7924; Doug Smith)

### PROJECT SUMMARY

**Applicant:** Core Architects, representing the property owner  
**Hearing Date:** 25 October 2023  
**Property Owner:** The Church of Jesus Christ of Latter Day Saints

**Acreage:** ~18.17 Acres  
**Existing Zone:** RA-1 (Residential Ag. 1- acre lot)  
**Existing Land Use:** Vacant  
**Proposed Land Use:** 88,000 sf. 210' tall Temple and ancillary uses

### BACKGROUND

The request is for approval of a temple for the Church of Jesus Christ of Latter Day Saints ("Church")<sup>1</sup> on a ~18.17 acre parcel of property at approximately 1400 East Center Street in the RA-1 zone. The temple is ~88,000 square feet and ~210' tall at the tallest point of the west steeple from natural grade. The site is located in the RA-1 zone which allows 1-acre single family lots if the project can comply with applicable code requirements.

<sup>1</sup> Style Guide — The Name of the Church - <https://newsroom.churchofjesuschrist.org/style-guide#:~:text=In%20the%20first%20reference%2C%20the,is%20also%20accurate%20and%20encouraged.>

Most are aware of the temple and the proposed location due to the lighting code recently adopted by the County that was initially applied for by the LDS church.

This is a unique project not only because of the size and scope of the primary building in the project, but also because the property is in Wasatch County not Heber City although the roads that provide immediate access to the site are in Heber City and the residents to the north and west of the site are in Heber City. To the east and south of the site is unincorporated County.

This staff report covers three separate application items that will be organized in the following sections in the following order:

1. Legislative development agreement, including exhibits and enacting ordinance; and
2. One lot final subdivision; and
3. Final site plan

Due to their interrelated nature the aforementioned items will be covered in this one staff report but will need to be reviewed concurrently with individual motions. If the legislative development agreement is not approved or not approved as written a different approval process may be needed. Many of the issues will be discussed under the portion of the staff report entitled “Site Plan”. This section will address issues like; lighting, setbacks, building height, parking, landscaping, trails etc.

The final site plan and subdivision applications were deemed complete on May 19, 2023. The applications were then sent through an internal Development Review Committee process that includes review by about 17 internal and external reviewers. Most of the ~17 review entities are looking at technical issues with the temple. Until the issues brought up by the various departments are resolved the item is not placed on a planning commission agenda. This proposal went through five review cycles each time with additional detail or clarification requested by various departments at each cycle.

The site is zoned RA-1. The temple, which is classified the same as a church<sup>2</sup>, is allowed by code in the RA-1 zone as a conditional use. However, it is typically not what would be anticipated in the RA-1 zone or frankly in any zone in the County due to the fact that temples are so unusual as to make this the first one applied for in the County. Typical uses in the RA-1 zone are single family housing on 1-acre lots or larger, or the continuation of historic agricultural uses. The temple will have private and public sidewalks, large landscaped gardens and lawns and more parking than a typical single family residential development would require. In a residential project in the RA-1 zone, heights are limited to 35’ from natural grade<sup>3</sup>, but greater heights are allowed as a conditional use for churches, church towers and similar structures not used for human occupancy which are not counted towards height (WCC 16.21.11). The proposed temple in contrast is ~88,000 square feet and ~210’ tall at the tallest point of the west steeple from natural grade.

The newly adopted lighting code allows for lighting on the temple and grounds in compliance with the code. The code was approved on April 19, 2023. The complete applications for site plan and subdivision approval for the LDS temple was submitted after the enactment of the lighting code. The application is considered vested under the approved lighting code, pursuant to Utah Code 17-27a-508.

The Planning Commission, staff, and the Council should be aware that Ray Quinney & Nebeker has filed a Petition for

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<sup>2</sup> WCC 16.08.03 includes Use Number 6910 as a Conditional Use. WCC 16.36.05 includes Use Number 6911 in 6910. 6911 includes: “Churches, synagogues, temples and missions.” Additionally, WCC 16.02.04 defines Churches and Temples the same.

<sup>3</sup> WCC 16.08.09.

Review regarding the recently enacted lighting Ordinance 23-01 in Case #230500048. Ray Quinney & Nebeker is representing the named petitioners Laurie Brown, Richard Getz, Julie Levinson, Randy Schroder, and the Save Wasatch Back Dark Skies, and a citizen group, in that case. The County Attorney's office gives this warning because of the possibility that Ray Quinney & Nebeker could try to use discussion of these applications for the various approvals against the County in the pending lawsuit, or in another lawsuit.

Since the proposal is such an unusual use, the applicant, through the application, has proposed that a legislative development agreement be used to address some of the issues related to this approval. This idea, and some specific considerations on the project that could be addressed through the development agreement, were presented to the Council for feedback purposes on June 21, 2023 in a public meeting. No specific concerns that showed it would be unproductive to proceed in this direction were raised by the Council, though it was clear that the Project was not being approved, even in general concept, at that time. The applicant has the right to apply for the Temple without a legislative development agreement, and the proposal would be considered as a conditional use. The proposed legislative development agreement, if approved, allows the proposal as a permitted use. The legislative development agreement, allowed by state code UCA 17-27a-528(2)(a)(iii), will also be used to address other unique elements of the temple, and can be used by the legislative body to make requirements unique to this project. If the council were to deny the request, and the applicant re-applied without a legislative development agreement, the council would lose the discretion to require aspects of the project to be addressed in unique ways, because the County would simply have to process the application under the vested code. Due to the unique aspects of this project, this could lead to outcomes that are not as desirable. For example, if a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application. UCA 17-27a-308(2).

Also, working with the applicant through a legislative development agreement creates a substantially diminished risk that the applicant could bring claims under RLUIPA (Religious Land Use and Institutionalized Persons Act of 2000). RLUIPA is a federal law, which among other things, prohibits the County from imposing a land use regulation in a manner that substantially burdens a religious institution, unless the County proves the regulation is advancing a compelling County interest in the least restrictive means.<sup>4</sup> By having the County legislative body and the applicant agree to standards for this project through the development agreement that both are satisfied comply with RLUIPA, and also advance the health, safety, and welfare interests of the public in compliance with Utah Code, then we can avoid disagreements that could arise over whether and how RLUIPA could apply to this project.

Due to the large amount of public interest in this issue, the County has sought to facilitate public comment by moving the public hearings to the Senior Center with overflow seating in the library, which can accommodate many more people than the regularly used Council Chambers. Staff has posted this staff report and ancillary material on the County website about a week before the first public hearing. This was done in order to give the planning commission and public time to carefully consider the staff's comments to the Planning Commission before the first public hearing on these proposals. Staff published the notice of this public hearing over 14 days before the hearing in the Wasatch Wave, and in several other ways including posting a sign on the property to try and ensure the public was aware of the public hearings. This is in addition to following the minimum requirements under the Wasatch County Code and Utah Code for noticing a public hearing.

Many of the concerns raised by the public regarding this proposal are the following:

1. Are the buildings height and size too big?
2. Is the lighting of the site and buildings too much?
3. Traffic

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<sup>4</sup> See 42 U.S.C. §§ 2000cc, et seq., and the resulting case law, for a more complete and exact explanation of RLUIPA.



#### 4. Water (dewatering of the site)

The staff report attempts to address these issues and more and provide the information which may or may not satisfy some or all of the appointed and elected officials concerns and the public and their concerns.

The purpose and intent of this staff report is not to provide justification for the proposal but to provide the necessary information in as concise and clear manner as possible so that the decision makers (planning commission and county council) can make an informed decision based on an understanding of the proposed applications. The review and approval or denial of all the applications is a legislative decision which is a land use decision made by the County Council after a recommendation by the Planning Commission.

### **STAFF ANALYSIS**

As mentioned there are three applications that are part of this proposal, legislative development agreement approval with its associated enacting ordinance and exhibits; small scale subdivision plat approval and site plan approval. Staff will address all three items separately divided by sections although all three application items are interrelated and have overlap.

#### ***SECTION 1 -LEGISLATIVE DEVELOPMENT AGREEMENT-***

There is no doubt that a proposal of this scale is unique. A temple is listed (6911) as a conditional use in the County land use code. Due to the uniqueness of the proposal, the County Legislative body has been asked to enter into a legislative development agreement as allowed by Utah Code 17-27a-528(2)(a)(iii). No doubt this will be seen by some as a run around the code requirements. However, when considering the findings required for a conditional use, the state code typically requires conditional uses to be approved but may require conditions<sup>5</sup>. Because the conditional use approval or denial is an administrative land use decision, the county cannot impose conditions or requirements on a project through the conditional use process, unless they are in accordance with the applicable standards of the code, which can be difficult to apply for a unique project such as this (UCA 17-27a-506(2-3)). In considering the conditional use application, "A county may not impose a requirement or standard on a conditional use that conflicts with a provision of . . . state or federal law," which could make applying a conditional use application for a temple subject to complicated matters in determining if the conditions or standards imposed on the application were allowed under RLUIPA. Deputy County Attorney Jon Woodard recommends that if the Council supports the application(s), or through the approval process can agree with the applicant to mutually acceptable requirements that promote the general welfare, using the legislative development agreement as opposed to the conditional use process allows a path to a better process and potentially a better approval than following the normal conditional use process and standards, for this unique application.

The state code allowing legislative development agreements provides some flexibility for projects that are unique and where it is impractical to address all regulations found in a land use code. Regardless of the location, a legislative

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<sup>5</sup> UCA 17-27a-506 (2):

- (a) (i) **A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed,** to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
- (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.
- (c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

development agreement would most likely have been the preferred way to address the unique issues associated with the proposal. This Utah code sections states 17-27a-528(2)(a)(iii) states:

*A development agreement may not: allow a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Utah code section 17-27a-502, including a review and recommendation from the planning commission and a public hearing.*

Approval of a legislative development agreement is entirely up to the County Council acting as the land use authority after review and recommendation by the planning commission. There are a lot of subjective statements in the legislative development agreement that the legislative body needs to be in agreement with and by approving the agreement are in fact stating that they are in agreement with the statements.

The major items addressed in the development agreement include but are not limited to:

1. Findings that the project is consistent with the General Plan (recitals section H)<sup>6</sup>.
2. Allows the use and height as a permitted use not a conditional use and that the use meets the findings required for a conditional use (4).
3. Agreement that the proposal is compatible with the surrounding uses (4.1.2.3)
4. Memorializes public trail requirements and ongoing maintenance by the owner. (3.1.4)
5. Ensures for payment of fees (3.1.2.2).
6. Ensures for construction of project improvements (3.1.3).
7. Establishes requirements for storm water management (3.1.5).
8. Provides for performance and warranty bonds (3.1.6.1).
9. Establishes that the lighting for the project will be governed by the lighting code as approved in the lighting plan and verified in the field during construction (4.1.2.7).
10. Allows for the building height and massing as proposed (8.2 and 8.3).
11. Allows for exterior lighting during the hours of operation (8.5)
12. Allows for an MOU with Heber City regarding Center Street (8.6)
13. Stipulates that the ridgeline/Viewshed analysis portion of the County code is not applicable to the temple (8.7).
14. Stipulates FEMA flood zone requirements (8.8).
15. Allows for closure of the stub-street referred to as Pimlico Drive and stipulates requirements (8.8.2).
16. Reinforces that the County Council is the land use authority for the applications for the project (8.12).
17. Allows for signage as proposed (8.11).

If the development agreement is not approved by the legislative body a different approval process may be required i.e., a conditional use application. If approved as proposed, the development agreement would need to be acted on concurrently with the other items on the agenda.

## **SECTION 2-FINAL SMALL SCALE SUBDIVISION-**

One of the necessary items requiring approval is a small scale 1 lot subdivision that creates the parcel, minus areas for road improvements. The proposal combines two parcels into one lot as well as dedicates property for the Heber City right-of-way including the round-about. The subdivision plat combines a 9.46 acre parcel and a 7.68 acre parcel into one platted lot. The boundary description on the plat states that the acreage is 18.17 acres which includes the property dedicated to Heber City for the widening of Center Street. The property without the dedication is 17.23 acres.

**-FEMA REQUIREMENTS-** The western portion of the property is in the FEMA 100-year floodplain and is considered a Zone AE. Zone AE means that the elevation of the 100-year floodplain is noted on the FEMA maps.<sup>6</sup> This portion of the property will have no structures but will be entirely landscaped and will not be changing the elevation of the property in the zone AE. The County has been discussing the proposal with State and Federal FEMA representatives who have indicated the proposed improvements are acceptable. The plat memorializes the 100-year floodplain.

The property that is included in the subdivision plat also contains the Lake Creek Chanel in the southwest portion of the plat. This portion of the Lake Creek Chanel is considered a floodway by FEMA. Regulatory floodways do not allow manipulation of the floodway that would restrict or increase the level of the water or in other words would not create a rise upstream from the improvements. Following is a definition of a regulatory floodway:

*“The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height”.*

There cannot be a rise in water level or a constriction as a result of work done in the floodway. The applicant is proposing to do work in the floodway and a “no-rise” report has been provided by the applicant’s engineer. The work that needs to be done in the floodway includes a storm drain outfall line, new water line and connection to the sewer. When working in Floodway’s, applicants are required to obtain a no-rise certification approved by the County before any work can be completed. The no-rise report has been reviewed by the County engineer and floodplain manager and approved. The “no-rise” report also includes the ongoing ground water from the temple perimeter foundation drain that is being discharged into the Lake Creek channel. With the work being done and the water being added to the channel the 100-year elevations stays within the acceptable parameters. The plat also shows the floodway on sheet 3 of the plat.

**-PUBLIC UTILITY EASEMENT REQUIREMENTS-** 16.27.12 requires a 10' PUE to be around the periphery of the parcel which has been added to the plat. Plats with public trails must have dedication language that dedicates the property to the public as per 16.21.09, 16.21.18 G and 16.27.12. Owner’s dedication must comply with WCC 16.27.12

**-SITE GROUNDWATER-** Tests have shown that there is relatively high groundwater on the site. Groundwater is currently at approx. 15’ below ground surface. The excavation to allow for the basement will be to a depth of ~41.25 feet from finish grade. Initial discharge is estimated to be at 600-800 GPM (Gallons per minute) for 1 month after which the rate declines to an estimated 200-300 GPM. During construction, a powered pump will be used. Long term there would be an ongoing flow that is anticipated to be 50-80 GPM. This flow will come from a gravity flow French drain around the perimeter of the foundation that will be installed approximately 15’ below grade and approximately 5’ into the groundwater level, though a deeper pumping system will be installed, but only operational for emergencies or maintenance. This type of perimeter drain is not unusual. Many of the homes in the surrounding area have French drains around their basements that’s discharges into the storm drain system in the public streets.

State code on water rights in section 73-1-3 states, “Beneficial use basis of right to use. Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state.” In discussion with water engineers and the State Engineers office moving this water from the ground around the foundation of the temple to the creek would not require approvals by the State Engineers Office because the water is not being put to a beneficial use. There is a permit required for the wells for the removal of the ground water through the State Engineers Office.

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<sup>6</sup>For most of these cites in this “major items” list, the item is addressed in a few different places in the development agreement, and I have not attempted to cite every location where the item is addressed.

The well for Heber City just to the east of the site is 200' deep. It is anticipated that the dewatering of the site should not impact the well. However, the dewatering proposal has created concerns for Heber City's water source that is to the southeast known as the Broadhead Spring. There has been discussion with Heber City and the applicant. There are studies being done regarding these concerns that are being addressed with Heber City.

### SECTION 3-SITE PLAN REVIEW-

As mentioned in section 1 of this report the legislative development agreement stipulates that the proposal will be considered as a permitted use. If that is the case, and the council approves the proposed legislative development agreement, the proposal still requires site plan approval. A site plan review is to ensure that the proposed use and all the necessary ancillary issues i.e., parking, landscaping, fencing, trails, lighting and building height have been considered and either comply with code or will be part of the development agreement.

–**LAND USE AND DENSITY**– The proposal is on a 17.23 acre parcel after road dedications. The RA-1 zone is primarily a single family zone however the RA-1 zone does have a list of allowed uses and conditional uses. The RA-1 section of the code refers to land use 6910 "religious activities" as a conditional use. Under the larger heading in WCC 16.36 of religious activities is listed, "churches, synagogues, temples and missions". The definitions section of the code provides the following definition:

*CHURCH OR TEMPLE: A building, together with its accessory buildings and uses, where persons regularly assemble for worship, which building, together with its accessory buildings and uses, is maintained and controlled by a religious body. There are some accessory uses to the temple that will be discussed as part of this section.*

Below is a section of the code that allows for a temple:

6910		Religious activities
6910	Religious activities	
	6911	Churches, synagogues, temples and missions
	6912	Religious reading rooms (must be separate from church structure)
	6919	Other religious activities, NEC

On the surface it may appear that a conditional use would allow discretion to deny a conditional use. However, in reality, conditional uses are uses that are allowed but may require conditions to mitigate negative effects. While a conditional use may typically be denied if the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated, the county must approve the conditional use if reasonable conditions are imposed, or can be imposed, to mitigate the reasonably anticipated determinate effects. UCA 17-27a-506(2). The code, adopted by the legislative body, has already made a determination that a temple is allowed in the RA-1 zone but may require conditions to mitigate negative effects. If the conditional use process were used the analysis and determination denying the conditional use would be made more difficult due to RLUIPA, because the standards and requirements of a conditional use cannot conflict with federal law. UCA 17-27a-506(1).

By entering into a legislative development agreement it is recommended that the council consider the impacts associated with the temple while realizing that the temple is in a RA-1 zone surrounded by single family homes that are



limited to a height of 35' from existing natural grade. The staff report is written to help the council in this analysis, and present a possible path forward.<sup>7</sup>

*-ROADS, ACCESS AND TRAFFIC-* As mentioned, the plat dedicates additional right of way and the applicant will be making improvements to Center Street including building the round-about. The round-about will have four legs. Two legs for Center Street east west directions, the third leg is the main entrance to the temple and the fourth north leg is for the eastern bypass road. Other than the leg into the temple site the improvements are in Heber City. Heber City annexed the road when Red Ledges was annexed into the City. Heber City has reviewed the applicant's traffic report and has approved the proposed improvements to Center Street as well as the MOU for maintenance and construction.

The RA-1 zone for this size property would typically allow approximately 13-14 homes which would create a traffic demand of approximately 140 ADT (Average Daily Trips). A single family subdivision would have been required to connect to the stub street in Triple Crown (Pimlico Dr.) ADT would have been somewhat higher than the 140 ADT due to through traffic from the Triple Crown subdivision however, not nearly as high as what is anticipated by the temple. According to the traffic analysis provided to Heber City by the applicant the temple will create a peak hour AM of 173 trips (hourly not daily as specified above for a subdivision) and a peak PM of 172 hourly trips. The total estimated trips per day for a weekday is 2,014 which would be similar to approximately 200 homes. Obviously the traffic created by the temple is significantly higher than what would have been created by a single family development on the property that could have been permitted under the RA-1 zoning. We have not attempted to compare the traffic impacts of the temple to other uses possible under the RA-1 zone, such as animal kennels, veterinary services, group transient lodging, residential facilities for handicapped or elderly persons or a mosque or synagogue. Since all the roads immediately surrounding the temple and that provide the major accesses to the temple are in the City, the City has performed the review of the traffic analysis and the required road improvements that provide access to the temple site. In talking with the Heber City Engineer the LOS (levels of service) for city roads is maintained at an LOS "C" which is acceptable to Heber City.

The final statement by the Heber City Engineer is:

"In addition to reviewing the TIS in-house, Heber City also sent it out to be reviewed by Horrocks Engineer's Traffic Engineering Team. The reviews resulted in minor comments which have been addressed by the applicant through the re-submittal and review process. Based on the review, the TIS appears to meet or exceed industry standards for these types of studies and is considered acceptable by Heber City".

*-PIMLICO DRIVE THROUGH STREET AND PEDESTRIAN REQUIREMENTS-* Pimlico Drive is a stub street in Triple Crown which is the subdivision to the south of the site. Pimlico Drive stubs into the south side of Lake Creek in the southwest corner of the temple property. The stub street was intended to go through and provide for traffic flow into this property which, as mentioned, was assumed would be developed as residential. A number of code and General Plan sections require a through road. In this situation a through road is not a preferable option from a County perspective due to the increased traffic that would be generated in the Triple Crown development. The applicant, after direction from the County, has proposed to dead end but finish the road. The end of the road would be finished with curb and gutter around the north end of the stub street, a sidewalk around the outside of the curb and gutter to the west side of the street, a handicap ramp into the end of the road and placing signs denoting that the road ends. All storm drainage will be directed to the inlet box to the south and will flow appropriately.

Code and General Plan sections that require a through road and pedestrian access are numerous in the county code and include:

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<sup>7</sup>See WCC 16.08.11 for more detail on the site plan requirements.

- 16.27.28: Street Standards
- 16.27.29: Roads and Intersections
- 16.27.30: Relation to Adjoining Streets
- 9.1.6 Policy of the General Plan
- 9.3.2 Policy of the General Plan
- 9.3.3 Policy of the General Plan
- 16.08.14(H) Roads, sidewalks and trail improvements
- 16.21.18(B) New developments to connect to trails
- 16.38 County trail requirements

**-TRAIL SYSTEM-** If the temple site would have developed as a residential development the stub road would have gone through and pedestrian access would have been part of the right of way in the form of sidewalks on both sides of the road. Because it is proposed that the road not go through the applicant has proposed to finish the road as explained above and not provide for a direct pedestrian connection from Pimlico Drive. Currently there is a dirt trail at the end of Pimlico Drive on the west side of the road that connects to the canal trail. However, this dirt trail runs through private property and there is no formal easement for access. The applicant's proposal is to not require the additional pedestrian access. Their proposal is supported by their argument that there is access to the asphalt trail, which provides access to the temple, at two other places in Triple Crown. One is the access along the Humbug canal and the other is from the cul-de-sac at 1650 East.

If the County requires a pedestrian access off Pimlico Drive the applicant would either have to purchase an easement through the private property to the west of Pimlico Drive and build an asphalt trail or build a bridge over Lake Creek which would provide a more direct access off Pimlico. Both of these options are possible requirements the County could impose. The bridge option could be complicated due to the FEMA floodplain and regulatory floodway that the bridge would have to span. The applicant has stated that they do not want the liability or the perpetual maintenance of the off-site bridge or trail.

Currently there are three trails stubbed to the property. One trail runs directly behind the Heber City well and Questar sub-station site and ends at the southwest corner of the Questar site (northeast portion of the temple site). This trail was intended to connect to a future development that would be required to provide access along the Lake Creek frontage. The applicant will connect to this trail which will turn north along the west property line of the Questar property and tie into the new trail that will be built on Center Street along the entire frontage of the temple property. The second connection is the trail that runs along Lake Creek originating in the Beaufontaine subdivision. This trail stubs into the temple property on the southeast side. This trail will connect along the south side of the temple and run west to the canal where it will turn north and intersect with the Center Street Trail that will be built in front of the temple. The third connection will tie into the existing trail that runs along the west side of Triple Crown on the East side of the canal and stubs to the southwest side of the temple property.

**-SETBACKS-** Some of the concern of the proposal is the size of the structure and the proximity to residential uses and Center Street. The setbacks provided on the site plan are the following:

- The setback off Center Street is 208'-1".
- The setback to the east property line at the closest point is 184'-5".
- The setback to the south is approximately 226'-10"
- The setback to the west property line is 756'-7".

All setbacks are significantly greater than the setbacks for the RA-1 zone which are: Front setback is a minimum of 50' from Center Street, side setbacks are a minimum of 10' and a total of 24' and the rear setback requirement is 30'. 16.21.19(A) entitled, "Transitional development standards for nonresidential uses bordering residential zones states",

- A. Where a lot in any business, commercial or industrial zone abuts a lot in any residential zone or use, there shall be provided a landscaped yard of at least ten feet (10') in width along such property line. In addition, the required setback shall increase as building height increases: the building shall be set back at least one foot (1') for each two feet (2') of building height above twenty feet (20')

This code section is arguably not entirely consistent with the temple proposal in that the temple site is not zoned for commercial or industrial however the general intent can be applied since the use is adjacent to residential uses. Section 16.21.11 of the Wasatch County Code states that "additional setbacks may be required" for churches that are granted a greater height than is permitted in the zone, but does not place clear guidelines for how much additional setback should be required. In this context, the standard of 16.21.19(A) provides an objective standard that has a similar purpose, and can help guide the county.

The code requires that commercial uses adjacent to residential zones or uses is required to provide a landscaped yard of at least ten feet (10') in width along such property line. The applicant has provided the 10' landscape strip around the site when adjacent to residential uses. The code also states, "In addition, the required setback shall increase as building height increases: the building shall be set back at least one foot (1') for each two feet (2') of building height above twenty feet (20')". While this code is not completely applicable if it were used the following setbacks would be required for a commercial use of this height adjacent to a residential use.

- North setback would be a minimum of 105' the site plan provides 208'-1"
- East setback 105' the site plan provides 184'-5"
- South setback 105' the site plan provides 226'-10"
- West setback 105' the site plan provides 756.6"

Even with the larger setbacks, that aren't directly applicable by code, this application is exceeding the setback requirements however, the building is very large for a zone that anticipated a maximum height of 35', and through the legislative development agreement process the council does have discretion on both the setback and height issues. However, under a conditional use application, the County may struggle to support a more restrictive setback requirement under the applicable codes, and RLUIPA.

*-NOISE/MAINTENANCE BUILDING-* As mentioned in the definition for a temple there is an allowance for ancillary uses. The proposed site plan shows a ~2,000 sf. temple maintenance building in the northeast portion of the site. This building will have loading docks on the north facing side as well as a cooling tower for the temple. 16.21.09, 16.23.07 or 16.28.02 requires that noise should be taken into consideration adjacent to residential uses. 16.21.19(H) states that all mechanical equipment (i.e., air conditioners, fans, pumps, etc.) shall be located within the building or on the roof with parapet walls in non-residential uses bordering residential uses. Any mechanical equipment located on the outside of the building within twenty five feet (25') of the nearest residential use/dwelling must have a visual/noise barrier (masonry wall) and/or landscaped berming that completely surrounds the equipment and extends at least one foot (1') above the equipment. The wall proposed around the cooling towers does not extend a foot above the cooling tower but the setback to a residential use property line is ~40'. 16.21.19 states that no loading docks, delivery pick up areas, etc., may be located within fifty feet (50') of a residential use/dwelling. These areas must be screened from the public view with a six foot (6') masonry wall or solid fence.

At 13' tall the maintenance building is significantly lower in height than a single family home that could have gone in this location. The side setback to the east property line is 20' where a single family home could be 10'. The setback to the south property line is 40' where a single family home is allowed to be 30'. The cooling tower attached to but to the west side of the maintenance building is 40' from the south property line with a solid 13' tall masonry enclosure surrounding it. South of the maintenance building there is a 40' landscape buffer and an 8' solid concrete wall on the south property line. On the east property line, adjacent to the Questar Gas sub-station, there is an 8' decorative metal perimeter fence. There has been some concern regarding the noise of the maintenance building and the cooling towers. The County asked the applicant to do a noise study (see attachment). The study states that the noise at the property line will be 46 dBA and 34dBA on the outside of the solid concrete wall at the property line. For context 34 dBA is compared to rustling leaves or a whisper.

Associated with the maintenance building area is a dumpster within an enclosure to the northeast of the maintenance building. The dumpster enclosure is solid masonry block that is 7'4" tall with solid gates on the front. The dumpster enclosure backs up to the trail and the Questar natural gas site to the east. WCC states that "No trash container shall be located closer than twenty five feet (25') to a residential property line". The proposed location is approximately 90' from a residential property line. The setback from the dumpster to the future trail corridor is approximately 7' however to the common property line with Questar it is approximately 25'.

– *OPEN SPACE/LANDSCAPING* – Landscaping for the site is abundant as compared to most proposals. 44% of the site is landscaped. There is a mixture of a total of 523 evergreen and deciduous trees to be planted on the site. The site will also have 4,581 evergreen and deciduous 5 gallon shrubs. In addition to this there will be other ornamental grasses, annual and perennial flowers and groundcover. At one point the buffer around the south and east sides of the temple, where the temple parking lot is adjacent to residential uses, did not have the required 10' landscape strip. This has been updated to show 10' as a minimum. Section of 16.21.19(D) needs to be complied with which requires the 10' landscape buffer between parking areas and residential uses with trees spaced no further than 25'.

-*FENCING/WALLS*- The entire site is enclosed in either a fence or precast concrete wall. The south property line, where the parking lot is adjacent to residential uses, is enclosed by an 8' pre-cast wall. Inside of the concrete wall is a 10' landscape buffer. In areas where landscaping (not parking) is adjacent to residential uses the solid pre-cast wall is replaced with a decorative metal fence. Walls and fences are approximately 8' tall.

– *PARKING* – Due to the unique nature of this project, the County required substantial evidence for determining the number of parking stalls, in addition to the 16.33.13 parking matrix. Under the matrix, a church (which 16.04.02 defines as the same as a temple) which has classrooms, chapel and offices bases the parking from the seating capacity in the chapel (the main assembly room). This method would not account for the large number of temple workers, baptismal font, endowment rooms, sealing rooms, waiting rooms, offices etc. Section 16.33.12(K) allows for a parking study to be done which would help ensure there is substantial evidence supporting parking numbers when a use is proposed that is not clearly noted in the parking matrix. Due to the unique nature of the temple, we asked for a study. A study has been provided based on 1 stall for every 3 seats (as per code) in the various gathering rooms, baptistery etc. and include parking for temple workers in accordance with WCC 16.33.13. This exceeds what the county could probably clearly require from applying the WCC 16.33.13 church standard to the temple, due to the lack of a single 'main assembly room' in the temple. Center Street, and adjacent properties, will not facilitate on street parking. Ensuring the parking will be adequate for the life of the structure, and considering the growth in the area, is important.

The study provided by the church states the following:

"Seats at all assembly areas have been counted as well as other miscellaneous seats, rather than just at a "main assembly area". And then divided by 3, consistent with the Wasatch County Code section 16.33.13 for churches. These



areas include: baptistery, baptistery chapel, confirmation rooms, waiting areas, entry areas, worker study rooms, worker training rooms, bride's rooms, instruction rooms, veil worker rooms, celestial room, chapel, sealing rooms, marriage waiting room, and initiatory rooms and youth center. Per the attached calculation there are a total number of 1,217 seats in these assembly and miscellaneous areas. This number divided by 3 equals 405.67 parking stalls required. In addition there is 3,899 sf. of office area. This area divided by 200 (as per code) equals 19.50 parking stalls required." Code requires a total of 426 parking stalls. The site plan provides for 454 parking stalls".

PARKING STALL COUNT	
TOTAL STALLS:	454
STALLS:	431
HC STALLS:	23

– **BUILDING HEIGHT** – Wasatch County code requires building heights to be measured from existing natural grade. With that in mind the height to the top of the west steeple from existing natural grade is 210' (because there is approximately 10' of fill over natural grade). The main portion of the building between the two steeples varies from natural grade but is slightly over 81'6". The east steeple is approximately ~141'10" when measured from natural grade.

The structure is extremely tall for this area and the allowed surrounding residential buildings are limited to a maximum height of 35'. Section 16.21.11 for churches and considered under the broader heading of land use number 6910 states the following:

**HEIGHT OF BUILDINGS:**

1. Minimum Height of Buildings: No dwelling shall be erected which has a ceiling height of less than eight feet (8') above the average level of the ground on which the dwelling is located.
2. Maximum Height:
  1. Churches: Churches are a conditional use in all zoning districts. In the event that a conditional use is granted for a greater height than is permitted in the zone, additional setbacks may be required.
  2. Structures Not For Human Occupancy: Chimneys, flagpoles, clock towers, church towers and similar structures not used for human occupancy or industrial uses, are excluded in determining height, except as specifically otherwise required in this title.
  3. Residential Structures: Height of residential structures are contained in the individual zones.

The code does not specifically place a height limit on churches and church steeples but allows them to be considered as part of the conditional use which may require greater setbacks. As mentioned before if the council approves the legislative development agreement the use will be considered permitted. Even if considered as a conditional use the height is determined as part of the approval process not under a specific height required by code. Also as mentioned earlier the setbacks for the structure are in excess of the setbacks required by code however, this type of use or the intensity of this use was not anticipated. The legislative development agreement gives the county legislative body the discretion to allow or require the height they believe is a benefit to the health, safety, and welfare of the community. If the legislative development agreement is not approved, or is not accepted by the applicant, the County may have to consider the appropriate height restriction under the conditional use criteria, and considering RULIPA. The planning commission and County Council may want to consider the height and deliberate the impacts of the height in this area

that typically would have limited height to 35' for a residential structure, but would have required significantly lessor setbacks and landscaped areas without structures.

**-LIGHTING** – The lighting for the proposal is regulated under the recently adopted lighting code (Ordinance 23-01). The County is currently in litigation over ordinance 23-01. In order to ensure the project is subject to the progressive standards of ordinance 23-01, under the development agreement, the county and the applicant would agree to be bound by ordinance 23-01 regardless of the outcome of the litigation. A primary intent of ordinance 23-01 is to ensure that all lighting is at the minimum levels required by code for the IBC (International Building Code) required lighting for egress from the building to a public way and lowest recommended levels of lighting for the IES (Illuminating Engineers Society) for the parking lot including associated walkways. Lighting outside of required lighting by the IBC and recommended lighting by the IES for parking lots is limited to 25,000 lumens per improved acre. The temple lighting plan shows that the “counted lighting” required by code comes to a total of 24,939 lumens per improved acre.

As part of the review of the lighting plan submitted by the applicant the County hired Clanton and Associates. Clanton & Associates is a lighting design and engineering firm. The primary reviewer of the temple lighting plan was Dane Sanders, President of Clanton and Associates. The initial plan submitted by the applicant was not in compliance with the lighting code and was rejected. The applicant resubmitted with an adjusted lighting plan which was reviewed by the consultant and is now in compliance, according to the consultant and the applicant. The development agreement approves the lighting plan as designed. As constructed, it will only be in compliance as long as the adjustable lighting levels are kept at the levels approved and are not raised, and the lighting is directed as required. Some of the items that have changed since the initial discussion of the lighting of the temple are the following:

1. The lighting of the spire on the east side of the temple, due to its height at 135', is not regulated by the FAA. Therefore the spire will not be required to be lit to the brighter FAA requirements but will be consistent with the rest of the temple and the lighting will be extinguished after open hours consistent with the rest of the temple.
2. The spire on the west side, if approved at 210 feet, is proposed to have a red static beacon on the top and will not need the top 1/3 of the spire to be lit to FAA requirements. The west steeple will not be brighter than the rest of the temple and, as is the case with the east spire, lighting will be extinguished after open hours.
3. The applicant has agreed that the operational hours of the temple will be from 6:00 A.M. to 10 P.M. for lighting purposes. This will allow the applicant to light up the exterior of the temple in a predicable manner regardless of operational anomalies, and will ensure that the exterior lights are turned off at 11:00 PM regardless of whether the temple is actually open later than 10:00 P.M.
4. The approved code allows for a maximum of 27 candelas per square meter. The highest bright spot on the temple as per the plan and renderings is 22 candelas per square meter on the west façade.

By providing lighting in areas such as walking paths, to the lowest levels recommended by the IES, but where not required by the IBC, the applicant has facilitated lit walking areas that are probably safer for pedestrians, at the expense of being able to have a brighter exterior to the temple. The building lighting will be limited by the 25,000 Lumens per improved acre cap.

There are two 15' high poles on the west side of the temple to light the west façade more uniformly. With the luminaries the height is 17' 9". These poles have 4 spotlights on each pole. These poles will need to be lowered so that the height is 15' to the luminary or light source. These pole mounted luminaries will also need be field adjusted so that the adjustable shields have full cut off provided by the building.

The code defines pole height as:

*POLE HEIGHT: The distance in the vertical direction above finished grade to the lamp or light source of a pole-mounted luminaire.*

As a condition of approval all lighting will be required to be field verified to ensure lighting levels are compliant with the approved plan and code and that the adjustable up lighting has full cutoff as required by the code. Lighting levels should be limited to the approved levels in perpetuity as a requirement of the development agreement. The lighting plan submitted, reviewed, vetted in public hearings and approved by the legislative body should be the final plan used in the field.

By lowering the height of the temple west spire, the need for any FAA lighting would be eliminated. However, the County is not certain what that height is. Ordinance 23-01 exempted “any form of lighting whose use is mandated or otherwise governed by any legal jurisdiction higher than that of the County.” If the applicant were to apply under Ordinance 23-01 without a legislative development agreement, the lighting considerations under Ordinance 23-01 would not be used to limit the height of the structure. This issue was considered in the enactment of Ordinance 23-01, for which the Church was the applicant. However, in the context of a legislative approval, the County legislative body could consider or require a lower height to eliminate the FAA lighting requirement. If the County legislative body desired to consider this, we may want to retain an expert that specializes in FAA lighting requirements. As proposed, the legislative development agreement holds the temple to the standards of Ordinance 23-01, including for exempting lighting that is required by the FAA, as was contemplated when the County legislative body approved Ordinance 23-01.

– *SIGNAGE* – Typically the RA-1 zone only allows for home occupation signs attached to the dwelling and entry monument signs for subdivisions (16.08.14(A)). Home occupation signs are limited to 2 square feet in area. Typically signs for churches are attached to the building and are approved as part of the conditional use. The temple proposal is for a monument sign that is a little over 3’ x 13’. It is included in the development agreement as a legislative approval for the project. The exterior inscriptions of *Holiness to the Lord* and *House of the Lord* are also allowed, as is signage permitted by the Manual on Uniform Traffic Control Devices to help guide vehicular and pedestrian traffic in the project. The applicant has represented that the temples of the Church draw people from outside of the community, and this signage will promote safety and welfare by helping people find the temple, and understand what the temple is, and navigate the premises safely. In approving the development agreement, the County would be agreeing to these things. If the development agreement was not approved, the signs would need to be re-evaluated in light of the standards of the Wasatch County Code and the requirements of RLUIPA.

-*LEGAL AND FISCAL ANALYSIS*-A legal and fiscal analysis has been provided by the Attorneys office as well as the Clerk’s Office and attached as Exhibit Q.

#### **DEVELOPMENT REVIEW COMMITTEE/FISCAL REVIEW**

This proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards, and codes. A report of this review has been attached in the exhibits. The Committee has accepted the item for Planning Commission to render a decision. Deputy County Attorney Jon Woodard has reviewed the development agreement and the ordinance, and has no legal objections to them as drafted. The Clerk/ Auditor office of the county performed a fiscal review, and found the ordinance and development agreement, as drafted, would have no significant fiscal impact on the County and would not result in an increase or decrease in taxes or debt. Reports of these reviews have been attached in the exhibits.

## **ITEMS FOR CONSIDERATION**

Normally under Utah Code, if an application meets the requirements of the code, the land use authority must approve the application. Due to the legislative development agreement, which allows a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, the Council has greater discretion than would normally be allowed. For this reason, staff's role in helping the land use authority evaluate whether the application meets the requirements of the code is different from most land use applications that do not involve a legislative development agreement.

The legislative development agreement, under which the project is proposed to be approved, opens up policy issues, for which the county legislative body must determine if the legislative development agreement promotes the general welfare. In considering this, the planning commission and council may consider discussing:

- The proposed height.
- Proposed roads, trails, traffic, and parking.
- The MOU with Heber City and the applicant.
- Pedestrian access at the end of Pimlico Drive.
- The lighting plan.
- Hours of operation fixed at 6 A.M.- 10 P.M. with lighting off at 11.
- The temple may not be subject to FAA required lighting if the west tower were lower.
- The dewatering plan.
- The ridgeline and viewshed ordinances and determining those ordinances do not apply in the valley floor.
- FEMA requirements.
- Using the legislative development agreement process for approval (UCA 17-27a-502).
- Not requiring the temple and the lighting to go through a conditional use process.
- The signage proposed.
- Approving the project as consistent with the intent of the general plan.
- Does the approval of the temple promote the general welfare?

## **POTENTIAL MOTION**

Move to Approve with Conditions consistent with the findings and conditions presented in the staff report.

### *Findings:*

1. The proposal is for approval of a legislative development agreement, one lot final subdivision plat approval and site plan approval.
2. Due to the uniqueness of the proposal, among other reasons stated in the development agreement, the County Legislative body has decided to enter into a legislative development agreement as allowed by Utah Code 17-27a-528(2)(a)(iii).
3. The legislative development agreement process was discussed with the council on June 21, 2023 in a public meeting and no reason for not following this process was given by the council.
4. The proposal is located in an RA-1 (Residential Agricultural) zone which is a single family zone that allows churches/temples as conditional uses (WCC 16.21.11).
5. Utah Code states that a land use authority shall approve a conditional use if reasonable conditions are proposed to mitigate anticipated detrimental effects. See Utah Code 17-27a-506(2)(a)(ii). The County has chosen a development agreement that can include additional terms that may not be allowed in a conditional use process.
6. The proposed legislative development agreement would make the temple a permitted use.
7. For reasons explained in the development agreement and this staff report, the legislative development



agreement makes both the temple and its height a permitted use, whereas without the development agreement, the temple and the height would be conditional uses that would have to be approved or denied in a manner consistent with applicable law and RLUIPA (Religious Land Use and Institutionalized Persons Act).

8. Working with the applicant through a legislative development agreement creates a substantially diminished risk that the applicant could bring claims under RLUIPA. RLUIPA is a federal law, which among other things, prohibits the County from imposing a land use regulation in a manner that substantially burdens a religious institution, unless the County proves the regulation is advancing a compelling County interest in the least restrictive means.<sup>8</sup> By having the County legislative body and the applicant agree to standards for this project through the development agreement that both are satisfied comply with RLUIPA, and also advance the health, safety, and welfare interests of the public in compliance with Utah Code, then disagreements can be avoided that could arise over whether and how RLUIPA could apply to this project.
9. A Determination denying a conditional use would be made more difficult due to RLUIPA, because the standards and requirements of a conditional use cannot conflict with federal law. UCA 17-27a-506(1).
10. Normally under Utah Code, if an application meets the requirements of the code, the land use authority must approve the application. Due to the legislative development agreement, which allows a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, the Council has greater discretion than would normally be allowed.
11. The RA-1 zone allows for single family homes with a density of 1.3 acres per unit for large scale developments that comply with code requirements, which might allow up to 13-14 lots on the subject property.
12. Single family homes in the RA-1 zone are allowed to have a maximum height of 35' from natural grade.
13. The temple is proposed to be ~200' tall at its highest point from finished grade, with ~82' to the top of the screen parapet and ~137' to the top of the east tower. Due to the natural grade sloping to the west measurements from natural grade is a range through the middle of the temple. There is ~10' of fill at the West façade and ~4' at the east façade.
14. The legislative development agreement gives the county legislative body the discretion to allow or require the height they believe is a benefit to the health, safety, and welfare of the community. If the legislative development agreement is not approved, or is not accepted by the applicant, the County may have to consider the appropriate height restriction under the conditional use criteria, and considering RLUIPA.
15. WCC 16.21.11 states, "Structures Not for Human Occupancy: Chimneys, flagpoles, clock towers, church towers and similar structures not used for human occupancy or industrial uses, are excluded in determining height, except as specifically otherwise required in this title.
16. WCC 16.21.11 states, Churches are a conditional use in all zoning districts. In the event that a conditional use is granted for a greater height than is permitted in the zone, additional setbacks may be required.
17. The setbacks for the temple are significantly greater than setbacks required by code.
18. The temple has substantially more landscaping than would be typical for a residential development and it provides a substantial area without structures that will function to protect an open area in the county.
19. ADT (Average daily trips) for a 14 lot subdivision would be approximately 140 trips per day.
20. The temple during its peak hour is anticipated to create 173 trips during peak am hour and 172 trips in a peak pm hour and 2,014 anticipated weekday daily trips. This amount of daily trips is roughly equivalent to 200 homes.
21. The roads adjacent to the site, including the eastern bypass road, are in Heber City who has approved the proposed dedication for the widening of Center Street and reviewed and approved the traffic analysis and approved an MOU with the church.

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<sup>8</sup> See 42 U.S.C. §§ 2000cc, et seq., and the resulting case law, for a more complete and exact explanation of RLUIPA.

22. The applicant is required to do improvements to Center Street as well as complete the round-about under Heber City's direction.
23. In talking with the Heber City Engineer the LOS (levels of service) for City roads is maintained at a LOS "C" which is acceptable to Heber City.
24. If the temple site would have developed as a residential development the stub road at Pimlico Drive would have gone through and pedestrian access would have been part of the right of way in the form of sidewalks on both sides of the road.
25. The proposal is to finish Pimlico Drive and not require a pedestrian connection at Pimlico Drive due to access at other places in the subdivision.
26. The proposal dewater the site by pumping 600-800 GPM of water into the Lake Creek channel after the initial foundation excavation that is to a depth of ~41.25 feet, during construction.
27. There is anticipated to be an ongoing flow of around 50-80 GPM. This flow will come from a gravity flow French drain around the perimeter of the foundation that will be installed approximately 15' below finished grade and approximately 5' into the groundwater level.
28. The Lake Creek channel is a FEMA regulated zone A-E. A "no rise" report has been submitted, reviewed and approved by the County. The State FEMA office and the regional FEMA office in Denver have also been involved in the conversation.
29. According to the State Engineers office and the applicant, if the applicant is not putting the water from the foundation drain to beneficial use, the applicant can dewater the site and discharge into the Lake Creek Channel.
30. The site plan application was submitted and considered complete after the adoption of the lighting ordinance (23-10), and is considered vested under the recently adopted lighting code regardless of the outcome of the litigation challenging the ordinance.
31. The property is in the Heber City airport flight path and is required to comply with FAA requirements. As proposed, the west tower that is 210 feet tall would be required to have a static red light.
32. FAA lighting may not be required if the west steeple is lowered.
33. The lighting code exempts the lowest levels of parking lot lighting (as recommended by the IES) and the lowest levels of IBC lighting for egress. This leaves a maximum of 25,000 lumens per improved acre for the balance of the site for non-essential pathways and building lighting.
34. The temple lighting plan shows that the "counted lighting" required by code comes to a total of 24,939 lumens per improved acre.
35. The applicant has agreed that the operational hours of the temple will be from 6:00 A.M. to 10 P.M. This will ensure that all exterior lights are turned off at 11:00 PM.
36. If the development agreement was not approved, the signs would need to be re-evaluated in light of the standards of the Wasatch County Code and the requirements of RLUIPA.
37. The Development Review Committee has reviewed the project and forwarded the item for planning commission consideration and council decision.
38. The proposed legislative development agreement adopts the project as proposed. The development agreement adopts the design guidelines, the building height, the massing, the parking, the exterior lighting and hours of operation, the cooperative agreement (MOU) regarding center street, the ridgeline analysis, the flood zone, the southern boundary property issues, the regional trail, the maintenance obligations, the signs, the process for approving the project, the land use authority for the project, the temple and the height as an approved use, payment of fees, bonding, storm water management, maintenance of trails, among other things contained therein.
39. The development agreement explains the rationale for many of the matters addressed therein. The council hereby adopts the recitals of the development agreement, and the body of the development agreement, as findings for those matters addressed therein.
40. Ordinance 23-16 authorizes the adoption of the development agreement. The council adopts Ordinance 23-

41. This staff report and the presentations made by staff during the public meetings are hereby incorporated into these findings.

### **RECOMMENDED CONDITIONS**

1. Where parking is adjacent to residential uses, trees must be spaced no greater than 25' apart.
2. The temple lighting is easily adjustable. Grounds and building lighting must be maintained at the levels shown and approved by the County Council and in the development agreement. "Light creep" cannot occur over time.
3. The presented lighting plan shows 22 candelas per square meter at the brightest spot. County code allows up to 27 candelas per square meter. The lighting plan submitted, reviewed, vetted in public hearings and approved by the legislative body must be the final plan used in the field and be consistent with the limits approved.
4. Lower light poles at the west façade so that height to luminaire or light source is not higher than 15' as required by code.
5. Any changes made by the council in their approval of the application shall be reflected in the development agreement to the satisfaction of the county manager with input from legal and planning staff, before execution.
6. The Development Agreement shall be executed by the County and the Applicant, prior to any final plats being recorded.
7. The final plat shall be recorded in accordance with WCC 16.01.16 – Expirations of Application or Approvals. In the event that there is litigation between the County and a third party or the applicant and a third party regarding this approval, that prohibits the County or the applicant from recording the final plat, the times of WCC 16.01.16 shall be tolled for the reasonable duration of the litigation. This shall not be interpreted to imply that litigation regarding this approval would, in itself, prohibit or prevent a final plat from being recorded.

### **ALTERNATIVE ACTIONS**

The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission should state new findings.

1. Recommend Approval. This action may be taken if the Planning Commission finds that the Final Site Plan is compliant as proposed with Wasatch County Code and all other applicable ordinances.
2. Recommend Approval with Conditions. This action can be taken if the Planning Commission feels comfortable that remaining issues can be resolved subject to the conditions noted and review of the County Council. ***\*This action would be consistent with staff analysis\****
3. Continue. This action can be taken if the Planning Commission needs additional information before making a recommendation, if there are issues that have not been resolved, or if the application is not complete.
4. Recommend denial. This action can be taken if the Planning Commission finds that the proposal does not meet applicable codes and/or ordinances.

## **EXHIBITS**

- A. Vicinity Plan
- B. Site Plan and context
- C. Summary tabulations
- D. Subdivision plat with road dedication
- E. Subdivision plat showing floodplain and floodway
- F. Off-site road improvements
- G. Site plan with setbacks
- H. Maintenance building and chiller noise study
- I. Trail connection points and trail plan
- J. Landscape plan and fence/wall location plan
- K. Wall/fencing plan renderings
- L. Architectural renderings, building heights and color palette
- M. Lighting plan and review comments
- N. No rise certification study
- O. Heber City traffic review letter
- P. DRC (Development Review Committee) Report
- Q. Fiscal Review by Attorney and Clerk
- R. Heber City MOU
- S. Legislative Development Agreement



**EXHIBIT A – Vicinity Plan**





## **EXHIBIT B – Site Plan and context**



**EXHIBIT C- Summary tabulations**

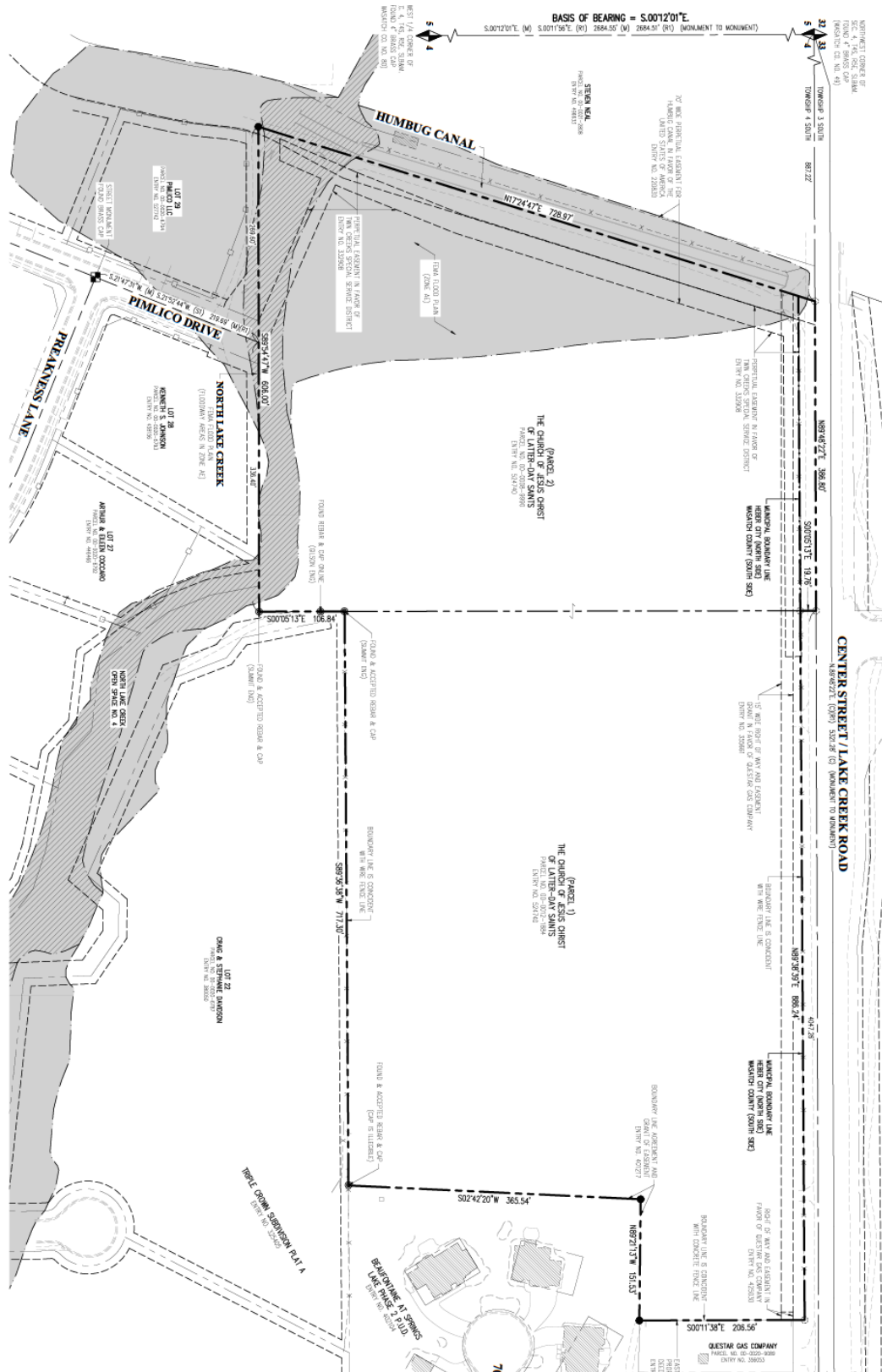
SUMMARY TABULATION		
TOTAL ACREAGE:	18.17 ACRES/ 791,485 SF	
NORMAL PARKING STALLS	432	
ACCESSIBLE PARKING STALLS	23	
TOTAL PARKING STALLS	455	
BUILDING FOOTPRINT:	26,089 SF	
SUB BASEMENT	1,340 SF	
BASEMENT	21,507 SF	
1ST FLOOR	21,278 SF	
2ND FLOOR	21,262 SF	
3RD FLOOR	19,650 SF	
TOTAL BUILDING	87,626 SF	
GROUPS BUILDING	1,933 SF	
CHILLER AND GENERATOR ENCLOSURE	1,861 SF	
TRASH ENCLOSURE	234 SF	
SITE PERCENTAGES	%	ACREAGE/ SF
LANDSCAPE	44%	7.58 ACRES/ 330,334 SF
HARDSURFACE	48%	8.21 ACRES/ 357,896 SF
BUILDINGS	4%	0.69 ACRES/ 29,883 SF
UNDISTURBED AREA	4%	0.75 ACRES/ 32,425 SF
TOTALS	100%	17.23 ACRES/ 750,538 SF

**HEBER VALLEY TEMPLE SUBDIVISION**  
SITUATED IN THE NORTHWEST 1/4 OF SECTION 4,  
TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE & MERIDIAN,  
HEBER CITY, WASATCH COUNTY, STATE OF UTAH





# **EXHIBIT E – Subdivision plat showing floodplain and floodway**



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5  
6

NEW CURB AND GUTTER REFER TO SHEETS C3209-C3211

NEW ROUNDABOUT REFER TO SHEETS C3209-C3211

CENTER STREET

15' PUE, TYP.

15' PUE, TYP.

15' TRAIL FOR COUNTY STANDARDS, MATCH EXISTING GRADE IN FLOOD PLAN

ACCESSIBLE ROUTE, TYP.

PRIMER, TYP., REFER TO LANDSCAPE PLANS

ACCESSIBLE ROUTE, TYP.

ACCESSIBLE DROP OFF

PROPERTY LINE

NEW PROPERTY LINE ALONG TO CENTER STREET

CENTER STREET/LAKE CREEK ROAD

NEW PAVING PER CITY SPECIFICATIONS, REFER TO C3220-C3222

NEW CURB AND GUTTER REFER TO SHEETS C3220-C3221

15' PUE, TYP.

HEAVY DUTY ASPHALT

MAINTENANCE BUILDING (PROPOSED)

15' PUE, TYP.

15' TRAIL FOR COUNTY STANDARDS, MATCH EXISTING GRADE IN FLOOD PLAN

NEW FENCE REFER TO LANDSCAPE PLAN TYP.

25' FIRE LANE, TYP.

25' FIRE LANE, TYP.

CONCRETE

ACCESS RAMP, TYP.

WATER EXEMPT

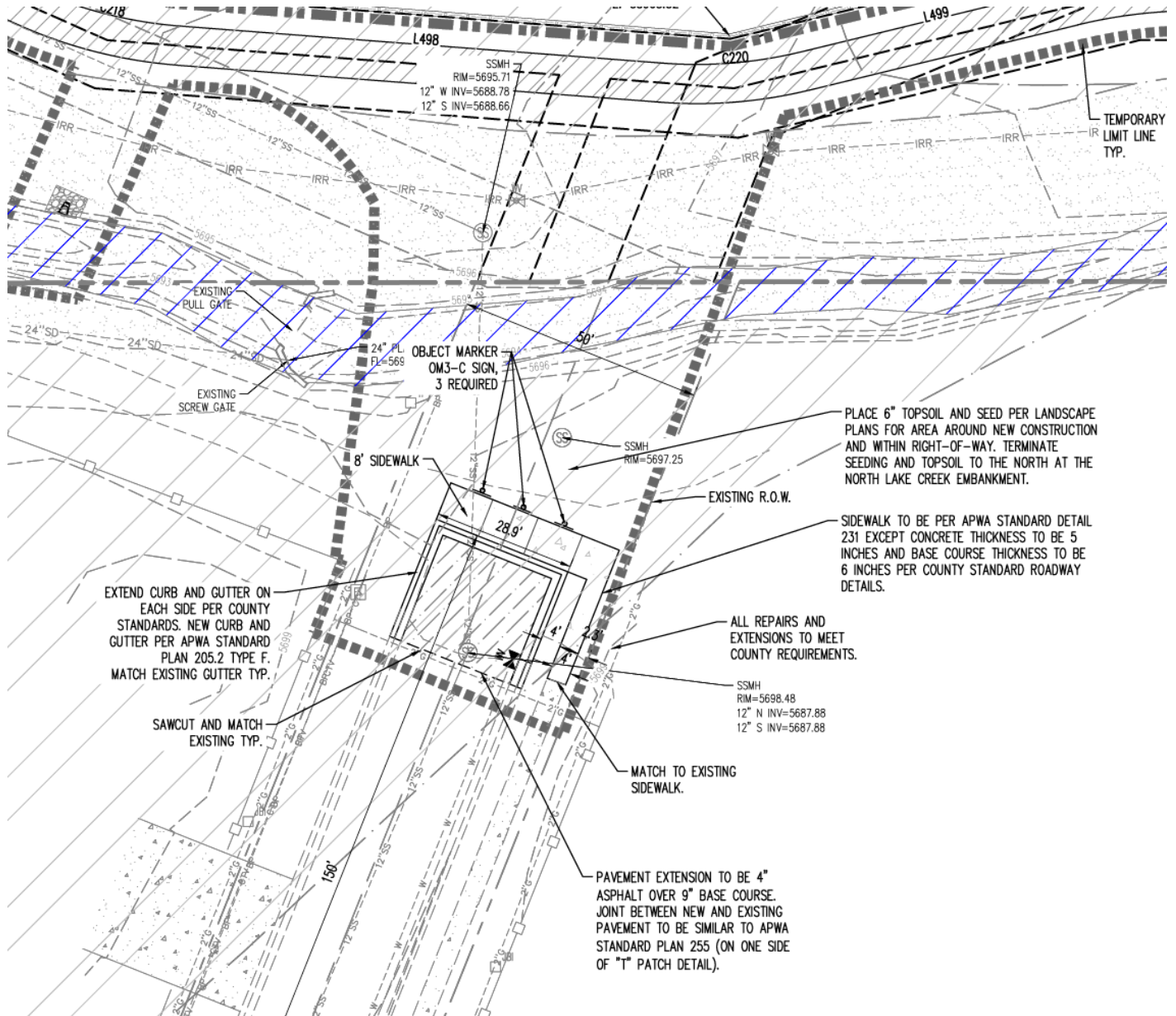
TABLE 1  
SHOW THE PLANTING TO EXISTING LANDSCAPE

REFER TO SHEET C3211

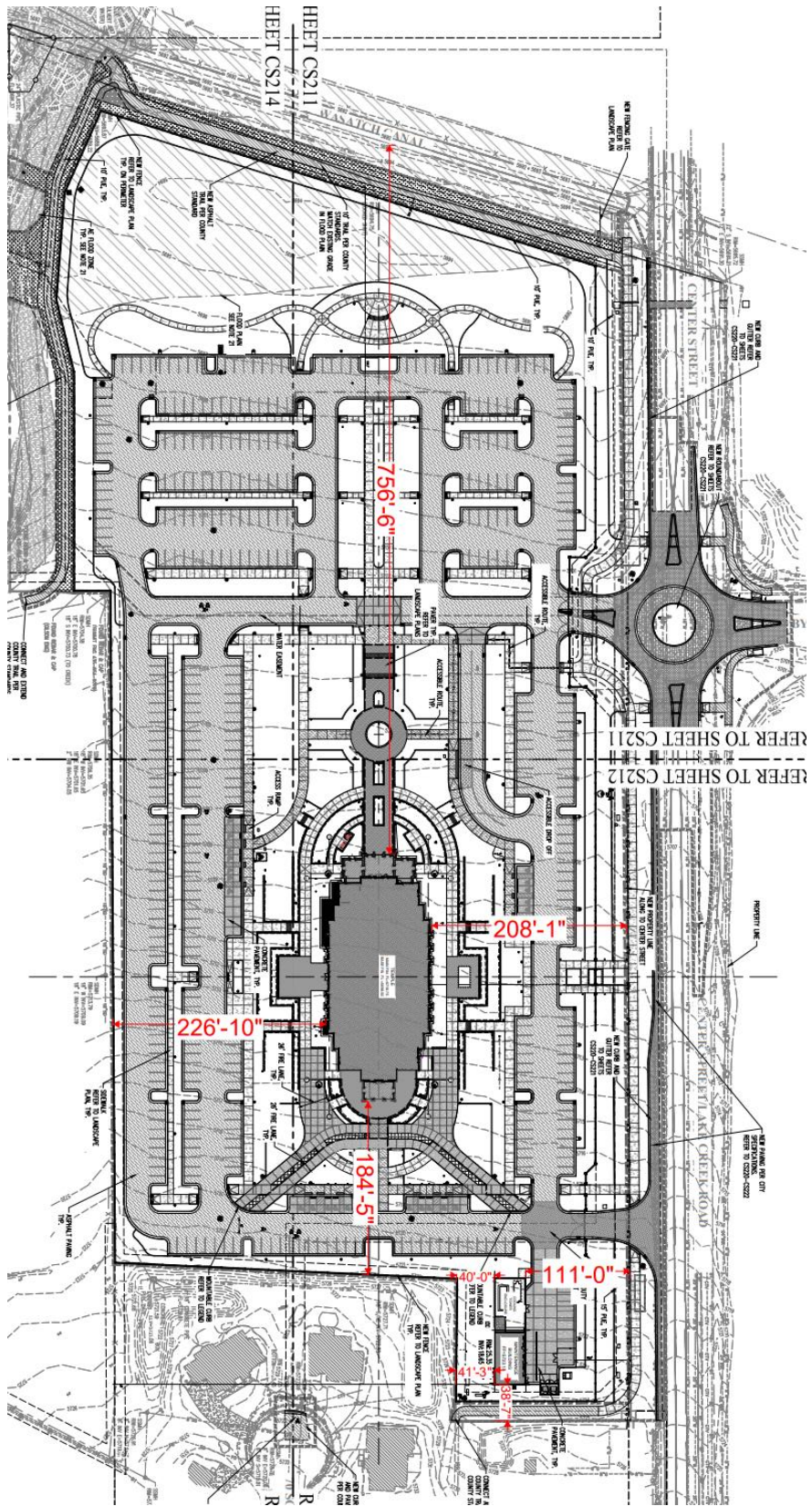
REFER TO SHEET C3212







**EXHIBIT G – Site plan with setbacks**





## EXHIBIT H- Maintenance building chiller noise study



**ENVISION™**  
ENGINEERING

MEMO

### MEMO – Outdoor Chiller Noise Level Study and Estimate (updated)

**To:** Jason Sandburg  
**Company:** CORE Architecture, LLC  
**Address:** 233 South Pleasant Grove Blvd. Suite 105  
Pleasant Grove, Utah 84062  
**Date:** December 13, 2022  
**Project:** Heber Utah Temple

**From:** JiLu Feng  
**Phone:** 801-652-8521  
**Project #:** CMA22-017

#### Purpose of Study and Estimate

An outdoor cooling unit, such as an air-cooled chiller, creates noise around it and can disturb neighbors or occupants inside the temple.

The purpose of this study is to estimate the noise level at the property line of the adjacent neighborhood and the nearest exterior walls of the temple from the chiller.

Most city ordinance requires that the ambient noise level in a residential zone to be no more than 50 dBA from 10 PM to 7 AM. This level is our targeted noise level since the noise ordinance of the city of Heber cannot be obtained currently.

The levels of noise at the points of interest are affected by the chiller's noise, the distance between the chiller and the points of interest, the chiller enclosure, and acoustical treatments to the enclosure walls.

#### Noise Source:

The noise source is the chiller itself. Based on the manufacturer's specification, at 3 feet away from the chiller, the noise levels at different frequencies are:

Frequency	Hz	63	125	250	500	1,000	2,000	4,000	8,000	Over all dBA
	dB Level	97	94	91	87	85	77	72	65	90

**ADDRESS**  
240 E. Morris Ave. #200  
Salt Lake City, UT 84115

**OFFICE**  
(801) 534-1130  
(801) 534-1080  
**FAX**

**WEB**  
www.envisioneng.com  
info@envisioneng.com  
**EMAIL**



Parameters Used for The Estimates

1. The chiller:  
Manufacturer: Daikin  
Description: Chiller with Hush Guard Acoustical Panels on top and Hush Quilt<sup>™</sup> Acoustical Absorbers on Walls of the Chiller Enclosure  
Model number: AWW016B  
Chiller Height: 100"
2. Distances from the chiller to
  - a. the property line at 55'.
  - b. the nearest exterior wall of the temple: 246'.

Calculated Results

The noise levels are:

1. 46 dBA at the property line (at the ground level).
2. 34 dBA at the exterior wall (at the ground level) of the temple.

Notes and Recommendations:

1. The noise level at the property line is 46 dBA which is lower than the typical required 50 dBA.
2. The noise level at the nearest exterior wall of the temple is 34 dBA which is lower than the typical required 50 dBA.
3. The current chiller enclosure wall height of 12'-4" is used in the calculations.

## Calculated Results

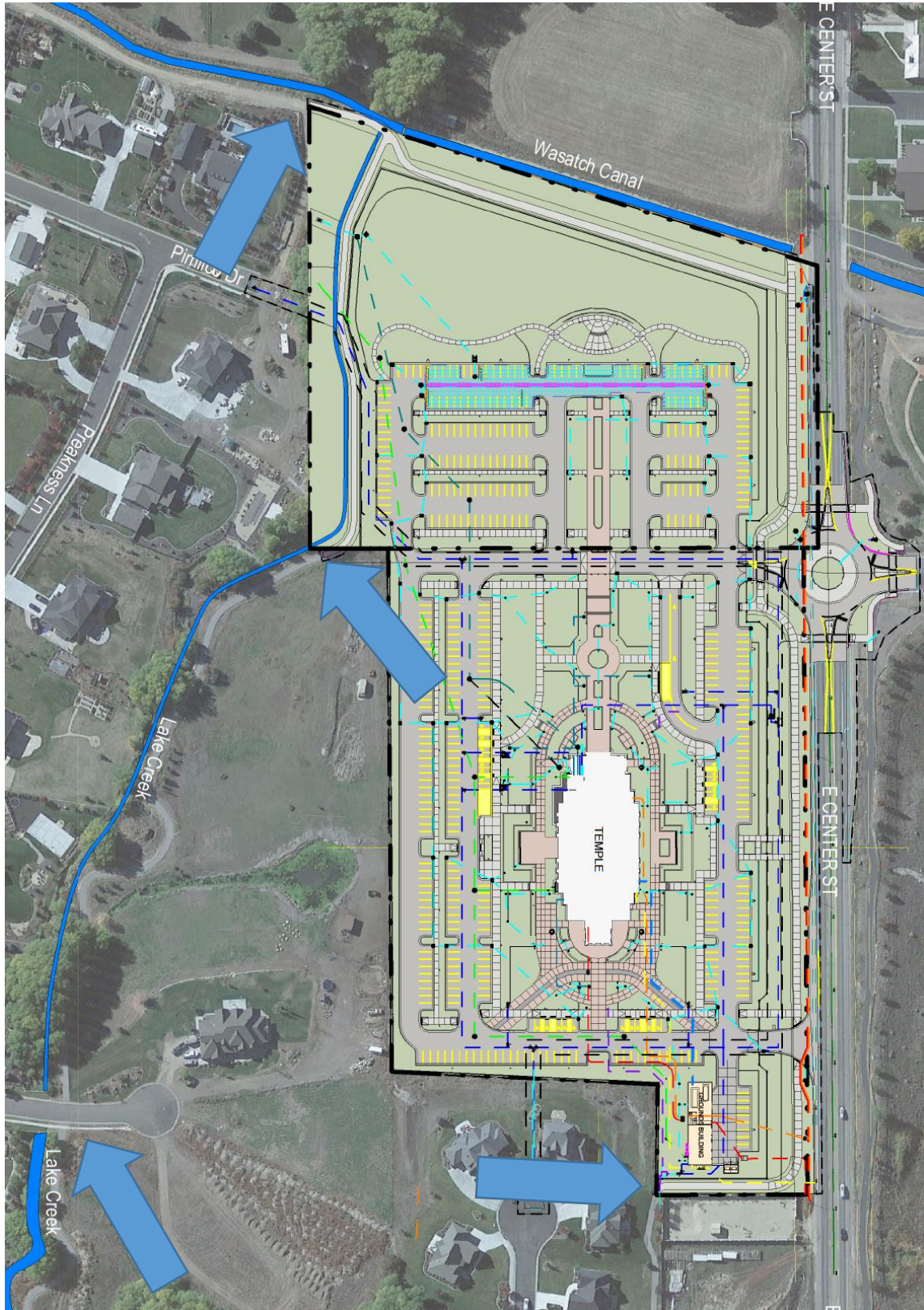
The noise levels are:

1. 46 dBA at the property line (at the ground level).
2. 34 dBA at the exterior wall (at the ground level) of the temple.





**EXHIBIT I – Trail connection points and trail plan**





**EXHIBIT J – Landscape plan and fence/wall location plan**

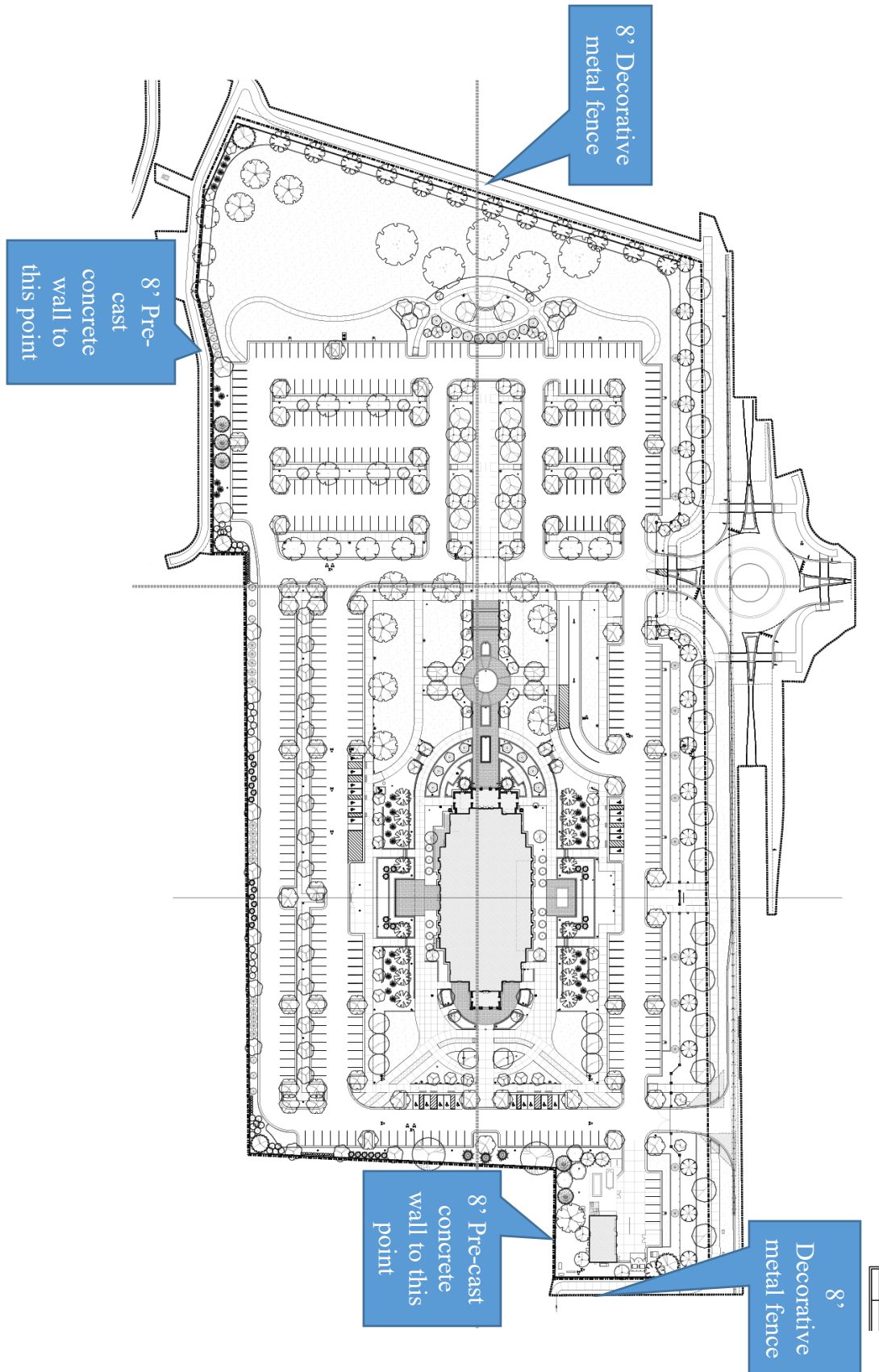




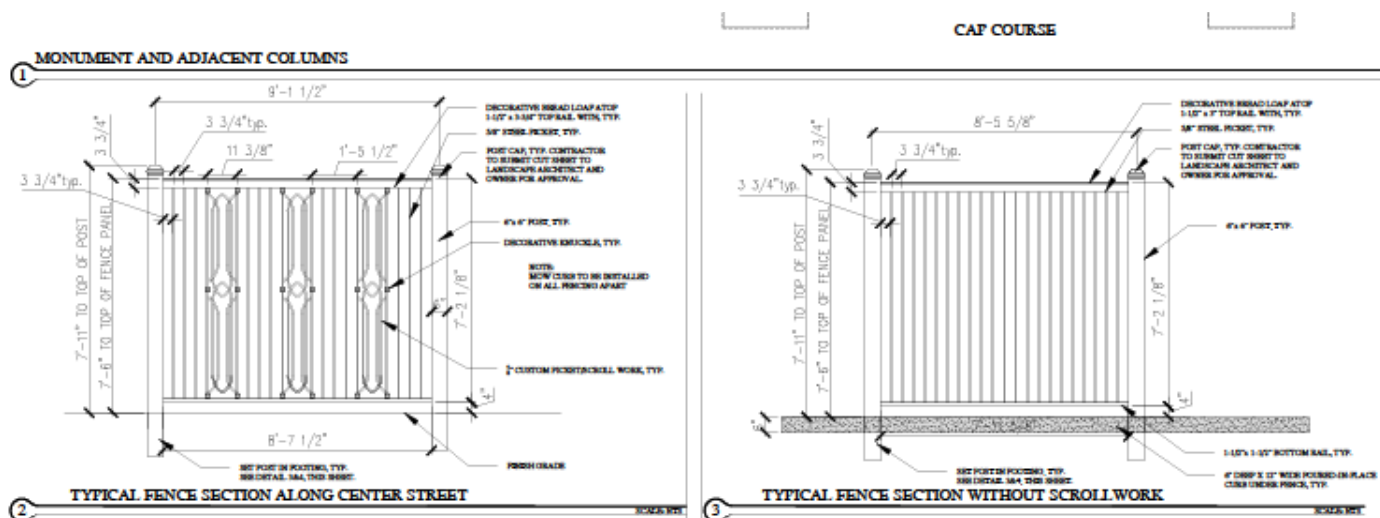
EXHIBIT K- Wall/fencing renderings



**Solid concrete wall adjacent to residential uses south and east sides.**

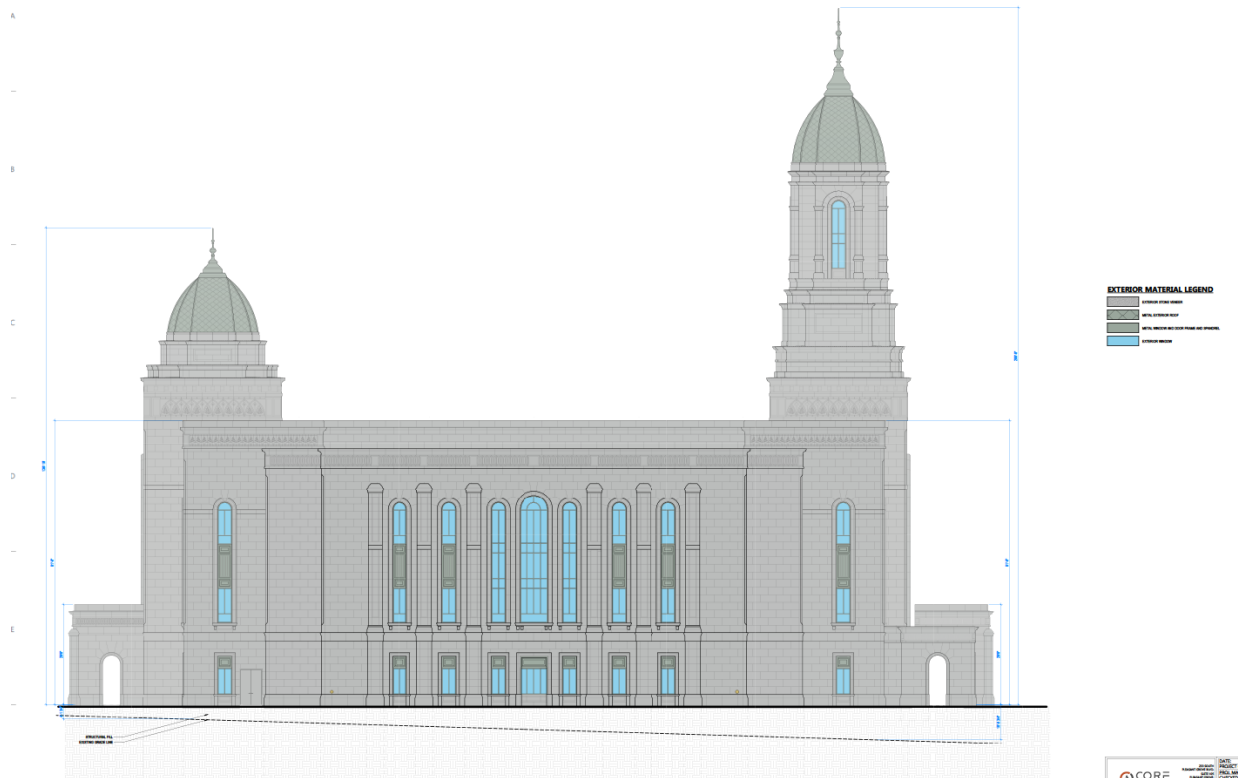
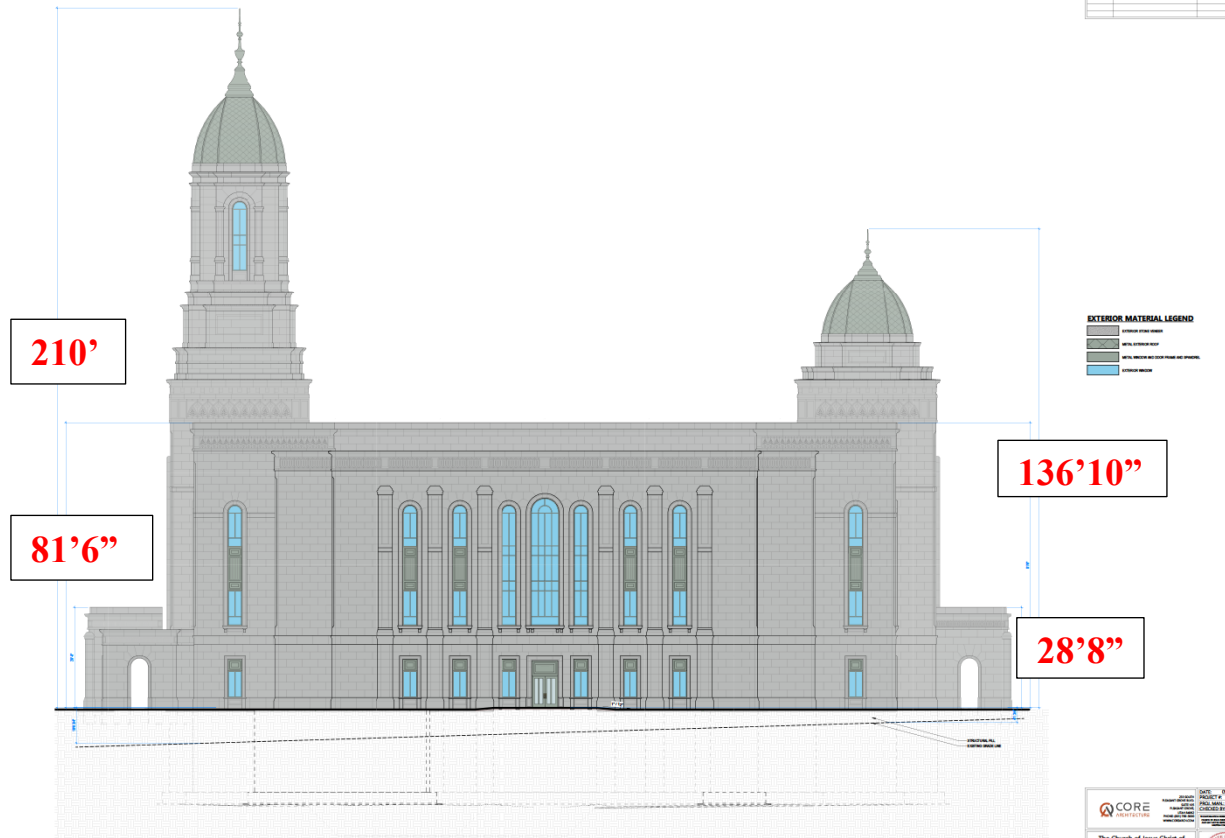


### Decorative metal fence with columns north side



**Fence without scroll work east side adjacent to the Questar gas sub-station and the west side**

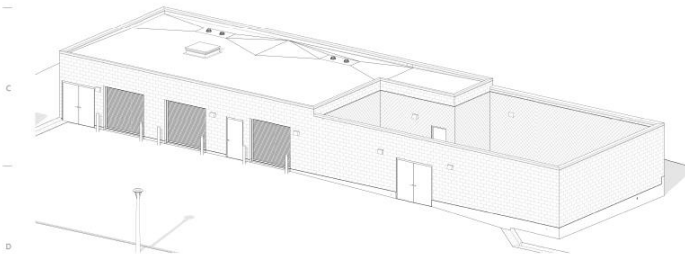
# **EXHIBIT L – Architectural renderings, building height and color palette**



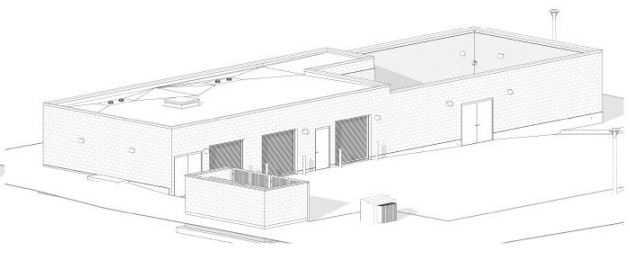




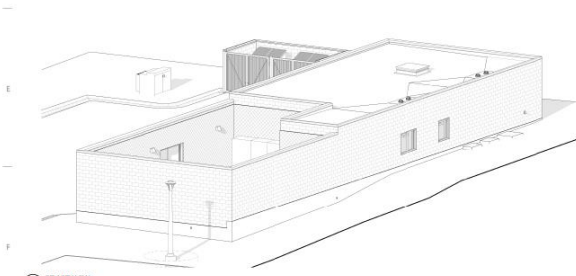
1 FIRST FLOOR M COLOR  
1/8"=1'-0"



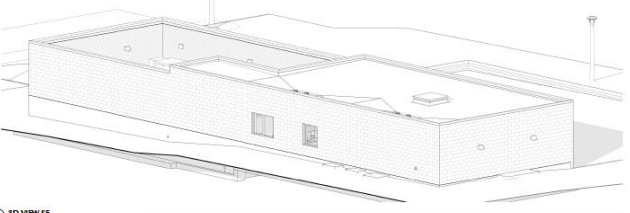
3 3D VIEW NW  
1/8"=1'-0"



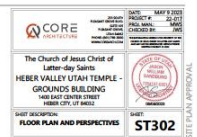
4 3D VIEW NE  
1/8"=1'-0"

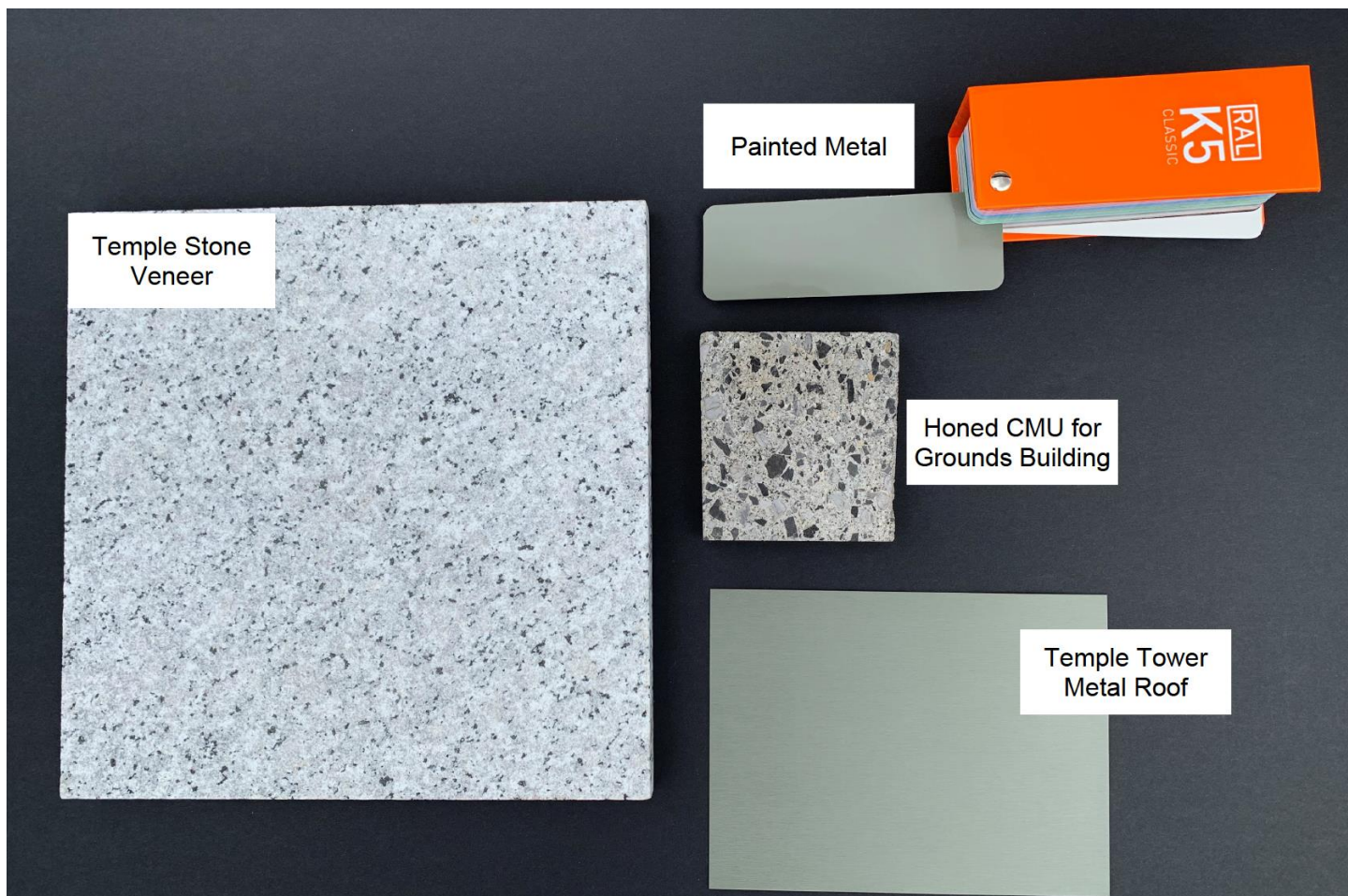


5 3D VIEW SW  
1/8"=1'-0"



6 3D VIEW SE  
1/8"=1'-0"

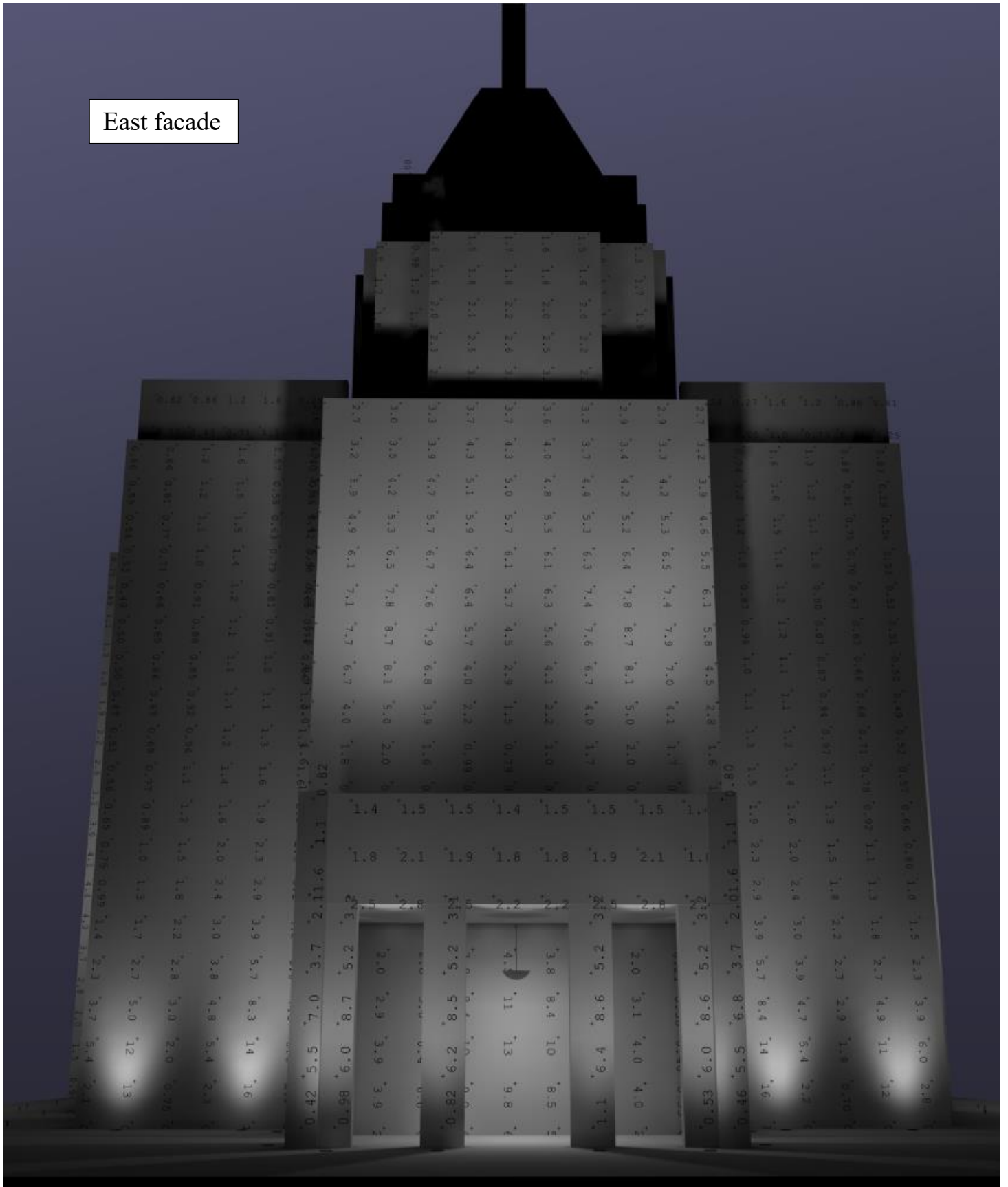




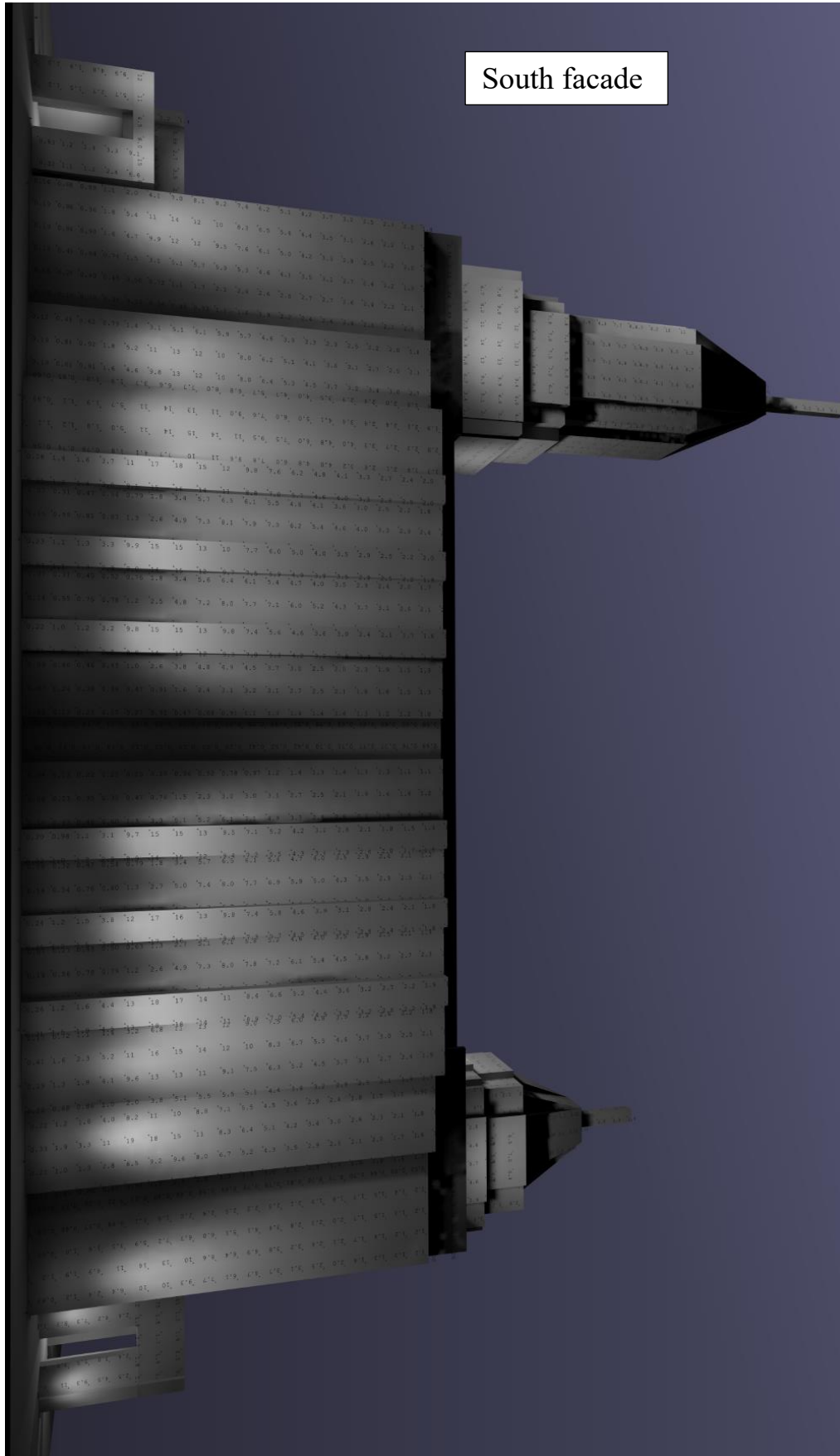
**EXHIBIT M – Lighting plan and review comments**

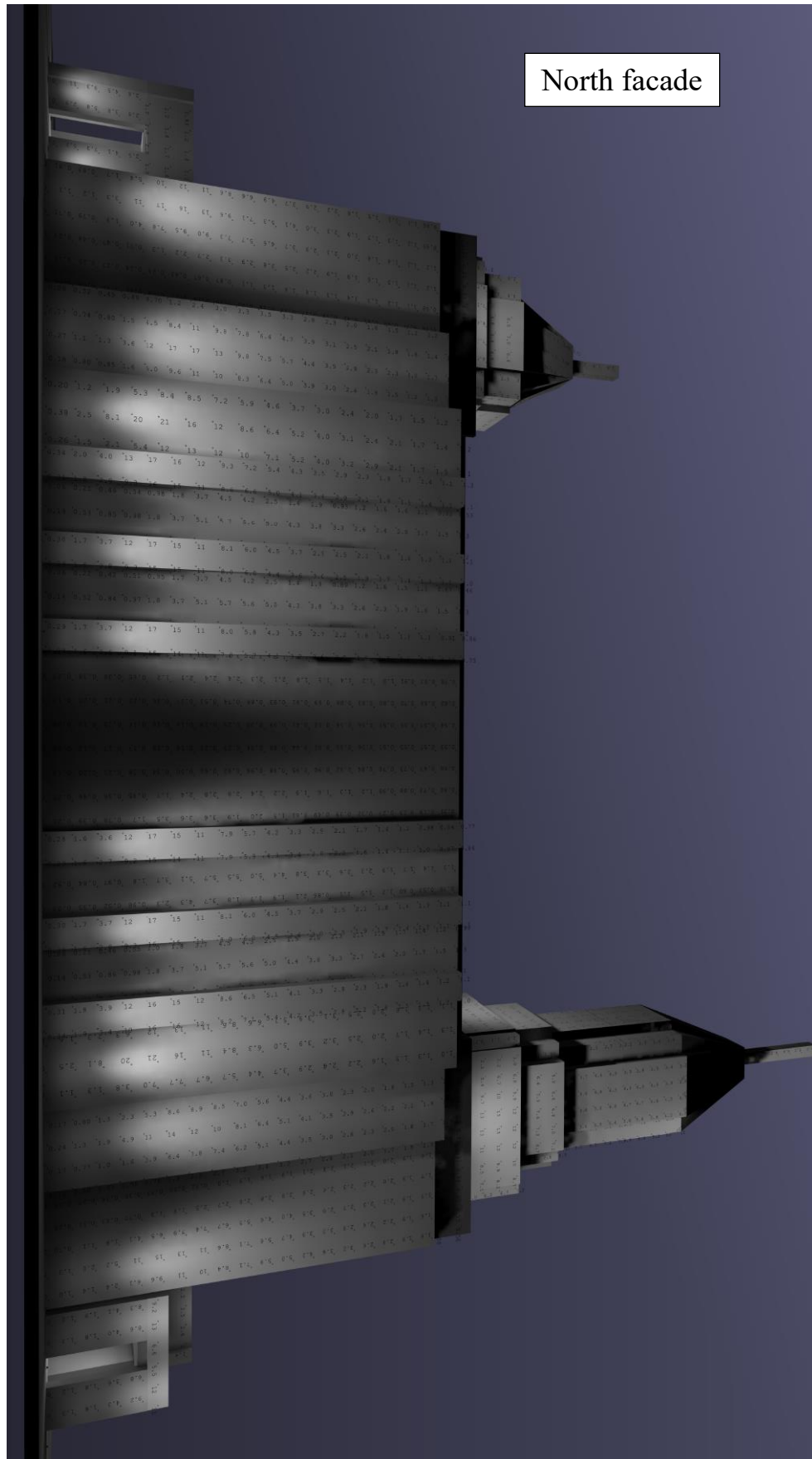


East facade





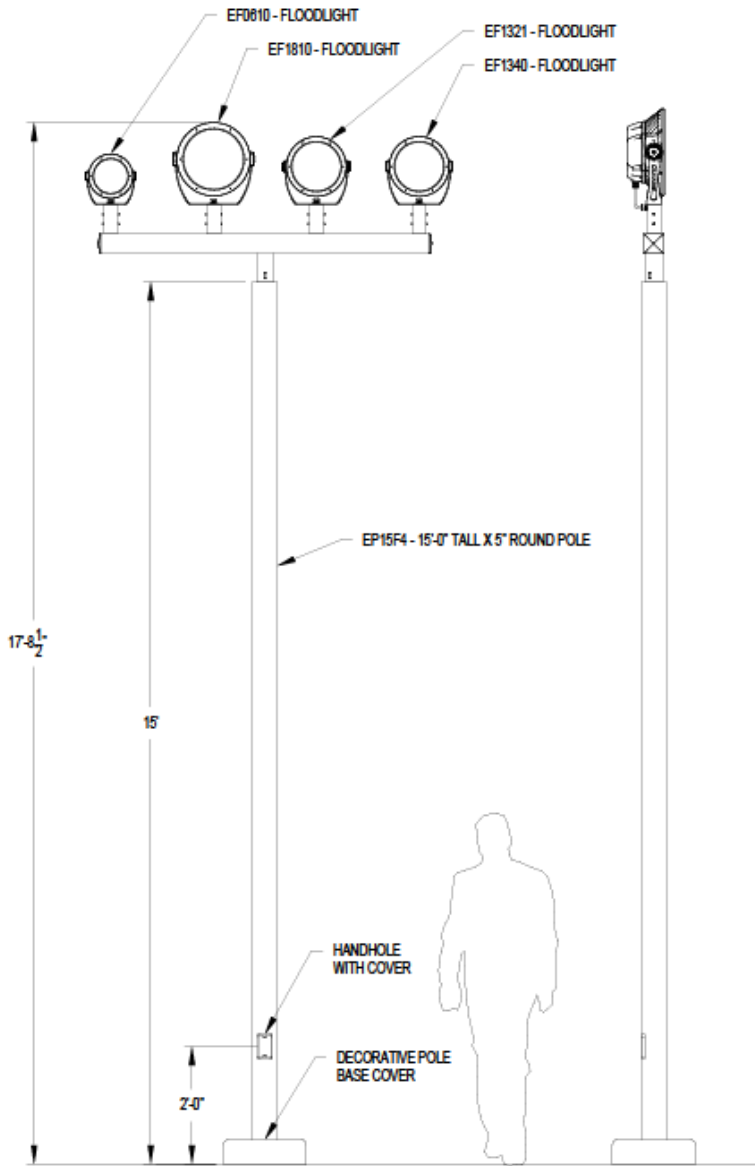




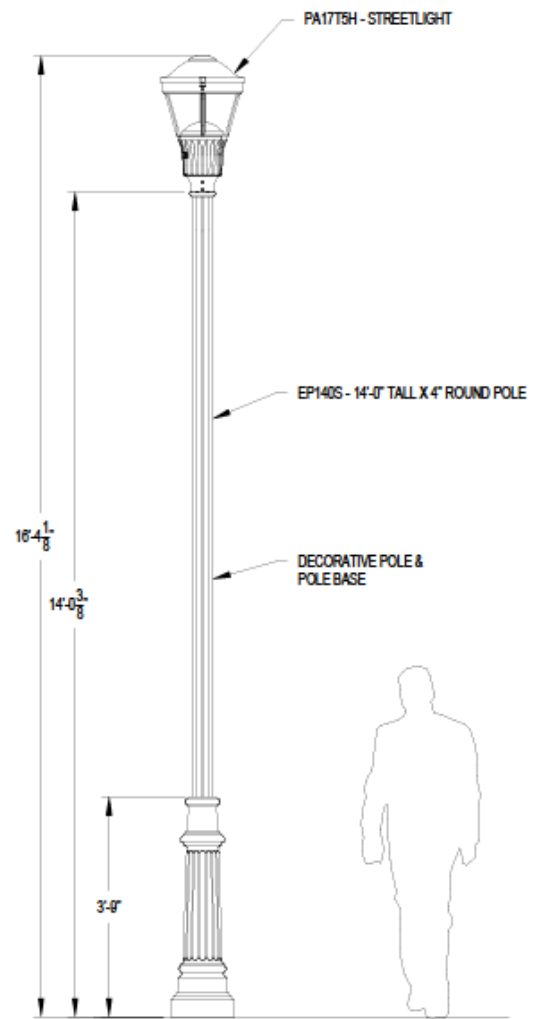
## FACADE LIGHTING RESULTS:

- MAXIMUM LUMINANCE LEVEL OF TEMPLE = 22 CD/M<sup>2</sup>

\* IF MEASURED LUMINANCE EXCEEDS 27 CD/M<sup>2</sup> DURING SITE INSPECTION, THE FIXTURES WILL BE DIMMED IN FIELD AS REQUIRED TO ENSURE COMPLIANCE WITH THE COUNTY CODE FOR MAXIMUM ALLOWED LUMINANCE LEVEL.



2 17'-11 1/4" TALL POLE ASSEMBLY WITH (4) FLOODLIGHTS  
SCALE: NTS



1 16'-4" TALL HEBER CITY POLE/LUMINAIRE ASSEMBLY  
SCALE: NTS

Façade Lighting - Lumen Summary per Improved Acre					
Fixture Type	Fixture's Purpose	Fixture Qty.	Lumen Output of Fixture	Dimming %	Total Adjusted Lumens
EF0610	Façade Lighting	2	6,287	0.50	6,287
EF0620	Façade Lighting	16	6,287	0.75	75,444
EF0621	Façade Lighting	12	6,287	0.70	52,811
EF0622	Façade Lighting	2	6,287	0.40	5,030
EF1320	Façade Lighting	2	12,574	0.75	18,861
EF1321	Façade Lighting	2	12,574	0.50	12,574
EF1340	Façade Lighting	6	12,574	0.75	56,583
EF1341	Façade Lighting	5	12,574	0.50	31,435
EF1342	Façade Lighting	4	12,574	0.60	30,178
EF1810	Façade Lighting	3	23,970	0.85	61,124
IR7B	Façade Lighting	18	1,186	0.90	19,213
EF1460	Monument Sign Lighting	3	1,408	0.16	676
FD6460	Flagpole Lighting*	1	460	1.00	460
PA23T5LL	Site Lighting (Walkways)*	12	3,747	0.90	40,468

Total Lumens:	411,142
Total Improved Site Acres:	16.486
Total Lumens Per Improved Acre:	24,939

\* Calculation Summary for Façade Lighting excludes lighting fixtures designated for IBC Egress Lighting (Section 1008), and IES Recommended Parking Lot Lighting and IES Recommended Walkway Lighting. Flagpole is downlighted using an adjustable beam aimed downward only at Flag.

IBC Egress Lighting - Lumen Summary per Improved Acre					
Fixture Type	Fixture's Purpose	Fixture Qty.	Lumen Output of Fixture	Dimming %	Total Adjusted Lumens
PA23T5H (Area Luminaire) / EP132S (Pole)	IBC Egress Lighting	10	11,241	1.00	112,410
PA23T3H (Area Luminaire) / EP112S (Pole)	IBC Egress Lighting	2	9,427	1.00	18,854
PA23T5LL (Area Luminaire) / EP108S (Pole)	IBC Egress Lighting	26	3,747	1.00	97,422
PA23T5L (Area Luminaire) / EP108S (Pole)	IBC Egress Lighting	10	7,494	1.00	74,940
PA17T5H (Area Luminaire) / EP140S (Pole)	IBC Egress Lighting	1	0 (Exempt)*	1.00	0 (Exempt)*

Total Lumens:	303,626
Total Improved Site Acres:	16.486
Total Lumens Per Improved Acre:	18,417

\* Calculation Summary for IBC Egress Lighting excludes lighting fixtures designated for Façade Lighting, IES Recommended Parking Lot Lighting, IES Recommended Walkway Lighting, and Heber City Streetlights.

IES Parking Lot Lighting - Lumen Summary per Improved Acre					
Fixture Type	Fixture's Purpose	Fixture Qty.	Lumen Output of Fixture	Dimming %	Total Adjusted Lumens
PA23T5H (Area Luminaire) / EP132S (Pole)	IES Parking Lot	38	11,241	1.00	427,158
PA23T3H (Area Luminaire) / EP112S (Pole)	IES Parking Lot	15	9,427	1.00	141,405
PA23T5H (Area Luminaire) / EP112S (Pole)	IES Parking Lot	3	11,241	1.00	33,723
PA23T5LL (Area Luminaire) / EP108S (Pole)	IES Parking Lot	2	3,747	1.00	7,494
PA23T5L (Area Luminaire) / EP108S (Pole)	IES Parking Lot	2	7,494	1.00	14,988

Total Lumens:	624,768
Total Improved Site Acres:	16.486
Total Lumens Per Improved Acre:	37,897

\* Calculation Summary for IES Parking Lot Lighting excludes lighting fixtures designated for Façade Lighting, IBC Egress Lighting (Section 1008), IES Recommended Walkway Lighting, and Heber City Streetlights.

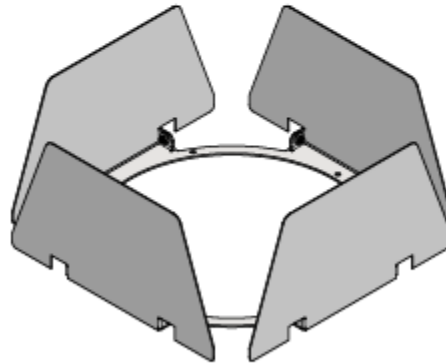
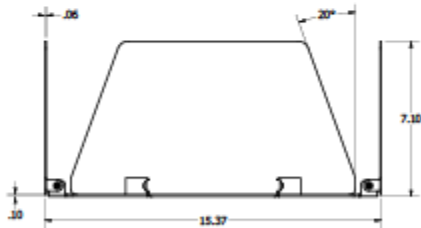
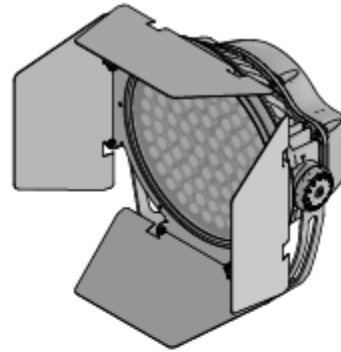
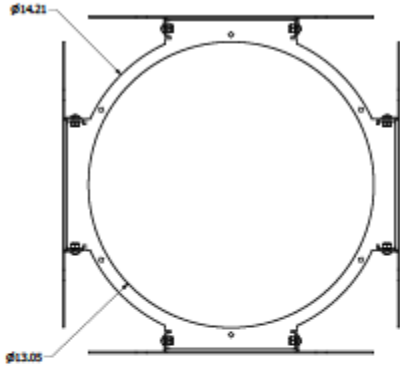
IES Walkway Lighting - Lumen Summary per Improved Acre					
Fixture Type	Fixture's Purpose	Fixture Qty.	Lumen Output of Fixture	Dimming %	Total Adjusted Lumens
PA23T5LL (Area Luminaire) / EP108S (Pole)	IES Walkways	12	3,747	1.00	44,964

Total Lumens:	44,964
Total Improved Site Acres:	16.486
Total Lumens Per Improved Acre:	2,727

\* Calculation Summary for IES Parking Lot Lighting excludes lighting fixtures designated for Façade Lighting, IBC Egress Lighting (Section 1008), IES Recommended Walkway Lighting, and Heber City Streetlights.



BARN DOOR OPTION FOR ALL FLOODLIGHT TYPES:  
EF0610, EF0620, EF0621, EF0622, EF1320, EF1321,  
EF1340, EF1341, EF1342, EF1810



<small>THESE DRAWING SPECIFICATIONS ARE ON CONDITION THAT IF NOT COPIED, REPRODUCED OR DISTRIBUTED TO A THIRD PARTY WITHOUT WRITTEN CONSENT OF NORTH STAR LIGHTING INC.</small>			
<b>PROPERTY OF</b> NORTH STAR LIGHTING INC. 10000 10TH AVE N MINNETONKA, MN 55345 TEL: 952-891-1234 FAX: 952-891-1235 WWW.NORTHLIGHTING.COM		<b>DATE</b> 5/15/23 <b>BY</b> CD <b>SCALE</b> 1/3	
<b>DESCRIPTION</b> CAP3 BARNDOR			
<b>MATERIALS</b> ALUMINUM POWDER COAT PAINT			
<b>QUANTITY</b> 1			

WASATCH COUNTY ORDINANCE COMPLIANCE - 13.21.16: EXTERIOR LIGHTING REGULATIONS					CLAYTON FOLLOW UP REVIEW	
L	LIGHTING STANDARDS	COMPLIANCE	RELEVANT EVIDENCE	ACTION	RECOMMENDATION	RESPONSE / ACTION TAKEN
1	Compliance with building codes: All exterior lighting luminaires installed in conformance with this section shall comply with all applicable building codes in effect at the time of installation under appropriate permitting and inspection.	See 3a. Below	See 3a. Below	See 3a. Below	See 3a. Below	
2	Full shielding required: Unless exempted in this section, all exterior lighting luminaires shall be fully shielded.	Not Compliant	Per Luminaire Schedule EL602 provided on P11 of the Lighting Design Document (Appendix 1.3) IR7B is a direct uplight that is not fully shielded by the building.	Provide alternate luminaire that is adjustable and can be aimed towards the building, with no light emitting into the sky.	Field verification of shielding shall be performed from the rooftop to measure luminance above the parapet and photograph all the luminaires from the parapet. direct view of light source shall not be visible from above the parapet.	Compliant pending field verification Field verification required to check that all luminaires, titts are oriented, directed and focused as designed.
2	Full shielding required: Unless exempted in this section, all exterior lighting luminaires shall be fully shielded.	Not Compliant	Luminaire Types EF0610, EF0620, EF0640, EF1320, EF1340, EF1360, EF1810, EF1820, EF2010 state that barn door accessory shall be provided. Barn doors are not a standard option for any of these luminaires. Catalog #7's do not included any glare control shielding accessories. Standard shielding options are not adjustable.	Provide shop drawings from manufacturer that show adjustable barn door accessories. Barn Doors shall be fixed in place with a mechanical support or reinforcement to improve the rigidity of the adjusted position to avoid being moved by strong winds.	Although not listed on the Specification Sheet, Barn Doors are a Standard Accessory for these luminaire Types. See the "LIGHT SOURCE & OPTIONS / ACCESSORIES" columns for these luminaire Types on Sheet EL602 - LIGHT FIXTURE SCHEDULE for clarification. Also see the included Specification Sheet for clarification.	Compliant pending field verification Field verification required to check that all barn doors are installed per design.
3a	Lighting application illuminance limits: Exterior lighting required by the International Building Code (IBC) version incorporated by reference in Section 7.04.01, including but not limited to points of egress and along the path of travel for the exit discharge from each exit to the public way, shall employ illuminance values that adhere to, but not exceed, the IBC-required values.  Per IBC, "Illumination shall be provided along the path of travel for the exit discharge from each exit to the public way." 1008.2.1 Illumination level under normal power - The means of egress illumination level shall be not less than 1 footcandle average at the walking surface.	More information needed. Excessive area with IBC Criteria applied.	Sheet ES020B The light levels on walkways around the building are excessive considering the context and location. More information is needed to understand the applicability of "exit discharge from each exit to the public way"	Provide diagram showing the "exit discharge from each exit to the public way"	The public way for most exits occur immediately outside the exits. Reduce lumen output of lights to meet IES Criteria. It seems that the IBC Criteria is applied to an excessive and unnecessary area.	Compliant
3b	For all other exterior lighting applications not governed by IBC requirements, excluding architectural lighting, the illuminance employed in each application shall adhere to, but not exceed, the IES-recommended minimum value for the application.  Parking Lot: IES RP-8-21 0.2 Fc Min 20:1 Max/Min (4 Fc Max for 0.2 Min) - 10:1 Avg./Min. was Deemed Acceptable.	Not Compliant	Sheets ES201A & ES201B Per Illuminance Summary table provided on Pg 3 & Pg 5 of Lighting Design Documents, Parking Lot illuminance minimums are below 0.2 Fc, and maximums are excessive, creating contrast and adaptation that may hinder visibility in the parking lot.	Change design to meet IES Parking Lot criteria.	Suggest to reduce lumen output, change to Type 4 distribution at perimeter and provide house-side shields on all luminaires around the perimeter of the parking lot.	Compliant With 10:1 Avg./Min as an acceptable variance to uniformity
3b	For all other exterior lighting applications not governed by IBC requirements, excluding architectural lighting, the illuminance employed in each application shall adhere to, but not exceed, the IES-recommended minimum value for the application.  Walkways: IES RP-43-22	Not Compliant	Sheets ES202A & ES202B Per Illuminance Summary table provided on Pg 6 of Lighting Design Documents, Walkway illuminances averaging 3 Fc - 6 Fc extremely excessive compared to the 0.4 Fc average required by IES RP-43 for L22.	Redesign lighting on walkways to 0.4 Fc average - which is the minimum required by IES RP-43 for L22. Upon review it was deemed that 1.0 Fc average is the Maximum Acceptable.		Compliant Adjacent to Architecture.
3c	With the exception of lighting exempted from regulation in subsection IV, item 23 of this section, and permanent lighting of the type described in subsection IV, item 24, the lighting of the building shall conform to the recommendation found in ANSI/IES RP-8, Table 17-2. In no case shall exterior lighting installed on any site exceed 25,000 lumens per improved acre.	Not Compliant	It seems that only the facade lighting, monument sign lighting and flagpole lighting are included in the calculation for 24,813 lumens per improved acre. While the Parking Lot lighting is excluded, the Walkway lighting is not excluded from this requirement.	All luminaires from the Walkway Lighting not governed by IBC shall be included in the calculation for 24,813 lumens per improved acre. Walkway Lighting will need to be reduced to be less than 25,000 lumens per improved acre.	Reduce Facade & Walkway lighting luminaires to meet this requirement.	Compliant pending Modifications New Lumen Summary is compliant based on the above calculations. The luminaires of the building shall be used to meet the lumens per acre. Features shall be modified (driver or otherwise) to have a maximum output of specified (dimmed) lumen levels.
4	Spectrum management: The correlated color temperature of light sources shall not exceed 3000 Kelvins.	Compliant	Per Luminaire Schedule EL602 provided on P11 of the Lighting Design Document (Appendix 1.3)	NA	NA	No Response Required.

5	Light trespass prohibited. No luminaire shall create conditions of light trespass, except as authorized by this section. Without limitation, single-family residential lots and agricultural uses are prohibited from light trespass.	Not Reviewable	There is no metric threshold to evaluate compliance of this requirement. The analysis provided describes the intent to meet this requirement and notes areas that may not meet the requirement. The height and material of the fence around the site would need to be known to understand the effectiveness of controlling light trespass.	Review the Exterior Lighting Regulations to provide a measurable threshold to be able to verify compliance with this requirement.		We cannot speak to the Reviewability of the Code; however, Sheet ES103 - SITE LIGHTING PHOTOMETRY, includes the Photometric Template from Every Luminaire on the Site, and with only a few exceptions, None of These Templates Extend Beyond the Developed Areas of The Site, and in the few instances where light is present near the edge of the property, that Light is Blocked/Terminated by the Perimeter Wall.	Compliant The Site Lighting Photometry demonstrates the intent of this Light Trespass requirement is met.
6	General Curfew. All exterior lighting shall be extinguished one hour after sunset; or within one hour of close of normal business hours.	Non Compliant	No Exterior Lighting Sequence of Operations or Adaptive Controls information has been provided.	Provide Exterior Lighting Sequence of Operations and Adaptive Controls information compliant with Wasatch County code, with information on the hours of operation for the Temple.	To dim all lighting to 25% (5cd/sqm) upon close of building, turn off all lighting 1 hour after close of building. MLO Lighting Zone: L22 that borders L21, which supports the curfew to apply L21 no facade lighting after midnight.	See New Sheet EL503 - LIGHTING CONTROL SCHEDULES, for the Exterior Lighting Sequence of Operations.  See EL503 Exterior Sequence of Operations updated 9/17/2023 per follow-up review comments.	Non Compliant We believe there is a mistake in the Exterior Lighting Sequence of Operations on Sheet #EL503: The Site Lighting, Temple Facade/grounds/building lighting, and Monument Sign all state "Features turn on 1-hour before DAWN via astronomical timesclock." This should state, "...1-hour before DUSC..." or, "turn on via photocell..."
7	Flagpoles:						Compliant
7a	Above 20ft AGL, may only be illuminated from above. Total light output may not exceed 800lms.	NA	NA	NA	NA	The Flagpole Uplight was Replaced with Fixture Type: FD6460, Flagpole-Mounted Flag Downlight. This Fixture Attaches to the Internal Halcyon on the Flagpole and Rotates with the Flag, so the light is always directed toward the Flag. It only produces 460-lumens. See the Specification for this Fixture Type in the Lighting Fixture Schedule on Sheet EL602 for clarification. Also see the included Specification Sheet for clarification.	Compliant
7b	Less than 20ft AGL, may be illuminated from below with up to 2 spot types luminaires with shields/diffusers to reduce glare, no more than 75lm/linear ft of the pole height. Light should be perpendicular only lighting the flag.	Compliant if flag pole height is 20ft	Per Luminaire Schedule EL602 provided on P11 of the Lighting Design Document (Appendix L3), Luminaire Type: RTX lumens output complies, but states "No Shielding", which does not comply.	Provide Glare Shield that is a standard option for this luminaire.	NA	Fixture Type: RTX is an In-Grade Mounted Uplight that would be installed in the Concrete Apron Around the Flagpole, so the Facade-Mounted Glare Shield Cannot be Used as it would be a Trip Hazard. For this reason we have deleted it from the Lighting Fixture Schedule and the Drawings. See Row 7a Above for information Regarding the New Flagpole Light.	Compliant
8	Service Station canopies	NA	NA	NA	NA		

WASATCH COUNTY ORDINANCE COMPLIANCE							
L	CONDITIONS FOR EXTERIOR LIGHTING FOR WALL, ARCHITECTURAL FACADES AND TREES	COMPLIANCE	RELEVANT EVIDENCE	ACTION	RECOMMENDATION	RESPONSE / ACTION TAKEN	CLANTON FOLLOW UP REVIEW
1	All such lighting shall comply with the curfew requirement and light trespass prohibition specified in this section.	Non Compliant	No Exterior Lighting Sequence of Operations or Adaptive Controls information has been provided. Light Trespass cannot be evaluated, see comments on section 1.5 above.	Provide Exterior Lighting Sequence of Operations and Adaptive Controls information compliant with Wasatch County code, with information on the hours of operation for the Temple.	Curfew: See comments on Section 1.6 Above Light Trespass: See comments on Section 1.5 Above	See New Sheet EL503 - LIGHTING CONTROL SCHEDULES, for the Exterior Lighting Sequence of Operations.  See EL503 Exterior Sequence of Operations updated 9/17/2023 per follow-up review comments.	Non Compliant We believe there is a mistake in the Exterior Lighting Sequence of Operations on Sheet #EL503: The Site Lighting, Temple Facade/grounds/building lighting, and Monument Sign all state "Features turn on 1-hour before DAWN via astronomical timesclock." This should state, "...1-hour before DUSC..." or, "turn on via photocell..."
2	Luminaires used for uplighting of structures may be unshielded by design provided that their direct light is completely captured by architectural surfaces and not emitted directly into the night sky. In the event that an applicant wishes to illuminate surfaces in this manner, the applicant shall also provide with the lighting plan required in subsection G of this section information on the construction materials of illuminated surfaces, their colors and finishes.	Non Compliant	Per Luminaire Schedule EL602 provided on P11 of the Lighting Design Document (Appendix L3), RTX is a direct uplight that is not fully shielded by the building.	Provide alternate luminaire that is adjustable and can be aimed towards the building, with no light emitting into the sky	NA	Fixture Type: RTX is Amiable and the light will be aimed/directed towards the Building. See the Revised Specification for this Fixture Type in the Lighting Fixture Schedule on Sheet EL602 for clarification. Also see the included Specification Sheet for clarification.	Compliant pending field verification Field verification required to check that all luminaires, RTXs are oriented, directed and focused as designed.
3	Luminaires used for uplighting of structures may be unshielded by design provided that their direct light is completely captured by architectural surfaces and not emitted directly into the night sky. In the event that an applicant wishes to illuminate surfaces in this manner, the applicant shall also provide with the lighting plan required in subsection G of this section information on the construction materials of illuminated surfaces, their colors and finishes.	Non Compliant	Luminaire Types EFR610, EFR620, EFR640, EF1320, EF1340, EF1360, EF1810, EF1820, EF2010 state that barn door accessory shall be provided. Barn doors are not a standard option for any of these luminaires. Catalog #s do not included any glare control shielding accessories. Standard shielding options are not adjustable.	Provide shop drawings from manufacturer that show adjustable barn door accessories. Barn Doors shall be fixed in place with a mechanical support or reinforcement to improve the rigidity of the adjusted position to avoid being moved by strong winds.	Field verification of shielding shall be performed from the rooftop to measure illuminance above the parapet and photograph all the luminaires from the parapet. direct view of light source shall not be visible from above the parapet.	Although not listed on the Specification Sheet, Barn Doors are a Standard Accessory for these Fixture Types. See the "LIGHT SOURCE" & "OPTIONS - ACCESSORIES" Columns for these Fixture Types on Sheet EL602 - LIGHT FIXTURE SCHEDULE. for clarification. Also see the included Specification Sheet for clarification.	Compliant pending field verification Field verification required to check that all barn doors are installed per design.

	COMPLIANCE	RELEVANT EVIDENCE	ACTION	RECOMMENDATIONS	RESPONSE / ACTION TAKEN	CLANTON FOLLOW UP REVIEW
1 East Steeple, 138 feet above ground level (AGL). Marking and lighting are not necessary for aviation safety.	Not Compliant	Per the renders and annotation provided on P8 of the Lighting Design Documents, it is shown that the East Steeple is required to be illuminated above the dotted line, which is incorrect and unnecessary. (Appendix 2.1)	The East Steeple does not require FAA required lighting of 15fc and needs to be within the regulations stipulated in the Wasatch County Ordinance, with a maximum luminaire of 27 cd/sqm. Additionally, lumens used in this area should not be exempt from the Wasatch County lumens per improved acre calculation.		The FAA Lighting Requirement is now being Met by using a Steady Red Beacon, so the Maximum Luminaire Level for the Entire Facade is 22cd/m2; however, that Level of Luminaire is rare. See Revised Sheet ES203A - TEMPLE FACADE LIGHTING PHOTOMETRY, for the Updated Photometry.	Compliant
2 West Steeple, 200 feet above ground level (AGL). - This structure is to be marked/lighting with IAW FAA AC 70/7460-1M PABA 4.5 (Appendix 2.2)	Not Compliant	Per the renders and annotation provided on P8 of the Lighting Design Documents, it is shown that the West Steeple is required to be illuminated above the dotted line. Only one third of this Steeple is required to be illuminated at 15fc per FAA regulations. (Appendix 2.1)	Only the top 67ft of the East Steeple is required to be illuminated at 15fc per FAA standards. The remainder of the building/steeple, 133 ft from ground level, needs to be within regulations stipulated in the Wasatch County Ordinance, with a maximum of 27 cd/sqm. Additionally, lumens used in this area should not be exempt from the Wasatch County lumens per improved acre calculation.	We recommend the use of red obstruction lighting to fulfill the FAA requirement, especially after curfew instead of lighting at 15fc. The 15 fc requirement for FAA may result in over 300 cd/m2 luminaire (based on a 0.65 surface reflectance). This is equivalent to the brightness of digital signage used in larger city downtown areas. We are very concerned that this luminaire level remaining on all night is not appropriate for this small town and rural area. We are recommending for this area and the East Steeple to be exempt from the Wasatch County lumens per improved acre calculation. Marker Light on West Tower Steeple for post-curfew use.	The FAA Lighting Requirement is now being Met by using a Steady Red Beacon, so the Maximum Luminaire Level for the Entire Facade is 22cd/m2; however, that Level of Luminaire is rare. See Revised Sheet ES203A - TEMPLE FACADE LIGHTING PHOTOMETRY, for the Updated Photometry.	Compliant
4 The luminance of architectural surfaces shall not exceed 27 candelas per square meter. Luminance of a surface shall be measured in a line of sight direction to the observer at an angle perpendicular to the surface being measured. The final measurement shall be the median value of three (3) measurements. A margin of error not to exceed twenty (20) degrees from perpendicular viewing angle is acceptable for purposes of measurement. The device used to measure the luminance shall have a margin of error of not more than ten (10) percent. Measurements associated with enforcement actions may only be taken by the planning director or his designee. Measurements shall be taken at a distance of not less than ten (10) feet from the surface, to avoid anomalies due to polished, reflective or irregular materials.	Non Compliant	East Steeple is not exempt from Wasatch County Ordinance as FAA does not require marking and lighting on this structure. Areas on the east Steeple exceed 27 cd/sqm which is non compliant. Similarly, in the lower West facade/steeple up to 133ft, should not exceed 27 cd/sqm. (Appendix 1.5)	Reduce the luminance levels to below 27cd/sqm on East Steeple and in the lower facade up to 133ft.	Reduce the luminance levels further than 27 cd/sqm, which is provided as a maximum. The max luminance of 27cd/m2 is below the allowable MLO L22, but does not seem appropriate to illuminate the entire facade to this level. Both from an environmental perspective and an aesthetic perspective, providing focus areas with an accent of 27cd/m2 with most of the facade at a lower 5cd/m2 would reduce impact and create more visual interest.	The FAA Lighting Requirement is now being Met by using a Steady Red Beacon, so the Maximum Luminaire Level for the Entire Facade is 22cd/m2; however, that Level of Luminaire is rare. See Revised Sheet ES203A - TEMPLE FACADE LIGHTING PHOTOMETRY, for the Updated Photometry.	Compliant
5 Luminaires used for uplighting of trees or other landscaping elements may be unshielded by design provided that their direct light is mostly captured by trees or landscaping and not emitted into the sky. If the trees or landscaping are not dense enough to illuminate trees or landscaping in this manner, the applicant shall also provide with the lighting plan required in subsection G of this section. Information on the height of the trees or landscaping, luminaires used for the uplighting of trees or other landscaping elements shall not exceed 10 lumens per vertical foot of the trees or landscaping, and may not exceed 1,000 lumens per improved acre. This limit does not create an additional allowance beyond the site lumen threshold stated in subsection I, item 3c of this section.	NA	NA	NA	NA	No Response Required.	NA



## EXHIBIT N – No rise certification study



# MEMORANDUM



**Date:** September 7, 2023  
**To:** Core Architecture  
**From:** Cameron Jenkins PE, CFM  
**Project:** Heber Temple  
**Subject:** No-Rise Certification  
**Project #:** 799-23-02

9-07-2023

## INTRODUCTION AND BACKGROUND

CORE Architecture contracted with Bowen Collins & Associates (BC&A) to prepare a no-rise certification for the proposed Heber Valley Temple site. The Heber Valley Temple site is located adjacent to North Lake Creek at approximately 1474 East Center Street in Heber, Utah as shown on Figure 1.

A part of the project involves improving existing trails, a new storm drain outfall into North Lake creek, connections to a sewer, and a new water line crossing North Lake Creek; all which are within a FEMA Special Flood Hazard Area Zone (SFHA) AE with Floodway. When working in Floodway's, you are required to either obtain a no-rise certification or submit a Conditional Letter of Map Revision (CLOMR) before any work can be completed. A Letter of Map Revision (LOMR) should be obtained from FEMA within six months after construction is completed. Also, before any construction activity can be started in a FEMA SFHA, a Floodplain Development Permit must be obtained. A no-rise certification shows that any work inside of the Floodway does not cause an increase of water surface elevation based on existing conditions. This letter provides the no-rise certification for the five construction activities (see sections below): trail improvements, storm drain outfall, sewer connection, waterline connection, and dewatering under the Temple footprint. The design drawings for each improvement are attached to this letter.

## TRAIL IMPROVEMENTS

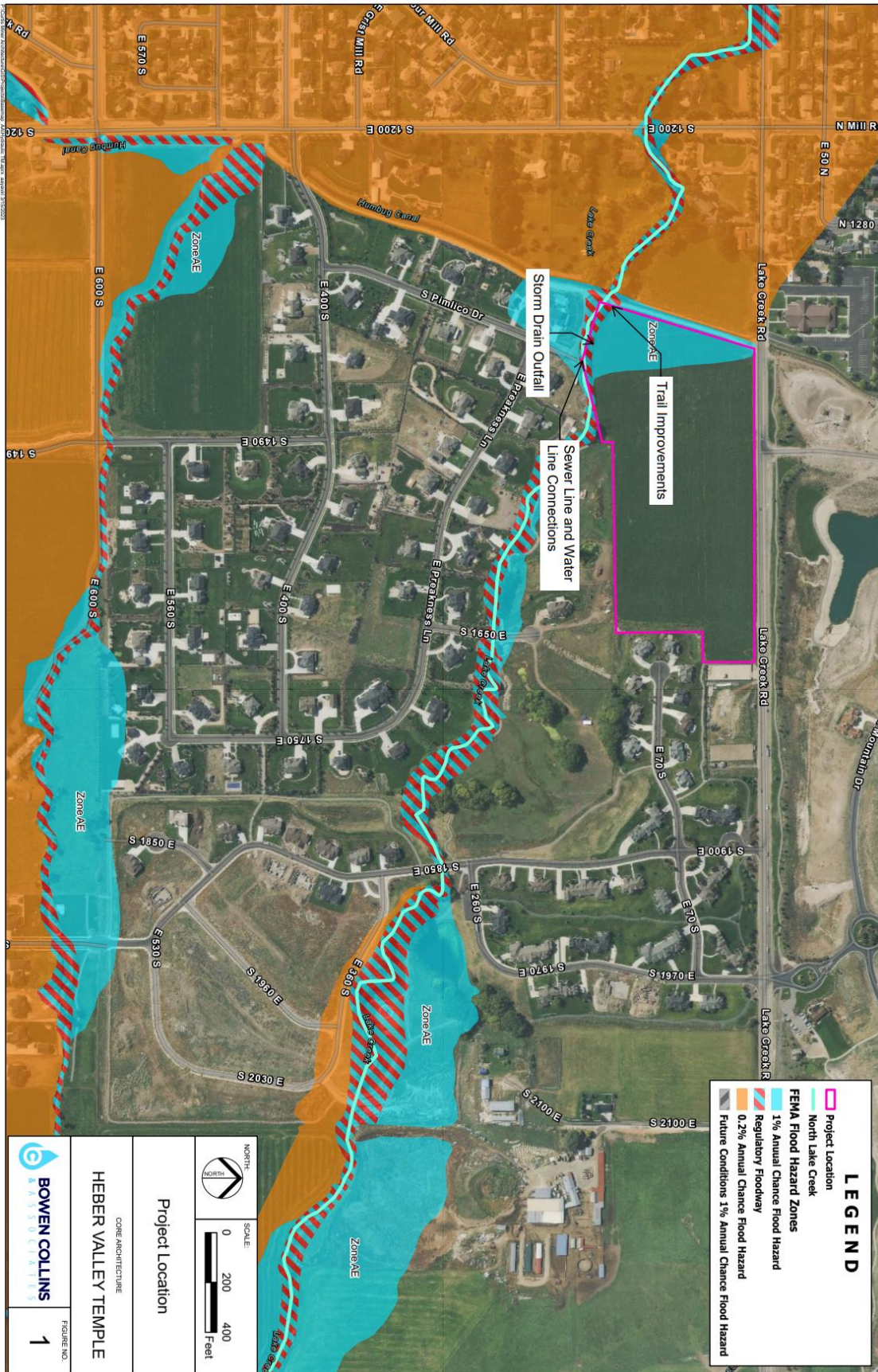
There is an existing earthen trail that follows along the Humbug Canal and crosses over North Lake Creek and through the floodway near the project site. As part of the Heber Valley Temple project, the improvements to the trail inside the floodway include removing part of the top of the trail and replacing it with asphalt as shown in Figure 2. The proposed asphalt finished grade elevations will match the existing grade elevation and similar roughness values as the existing trail. The proposed trail improvements will have minimal impact on the riverine hydraulics and will not cause any increase in water surface elevation and a no-rise certification can be obtained.

## STORMDRAIN OUTFALL

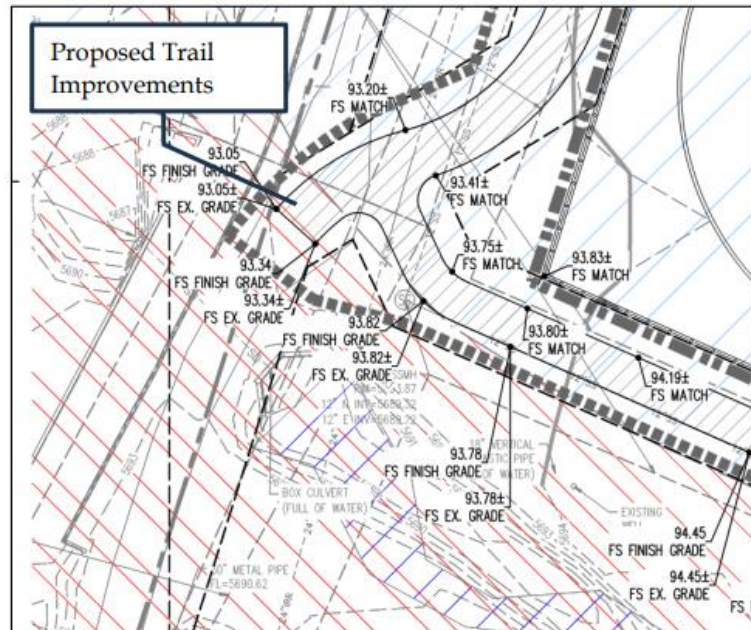
As part of the project, a new storm drain outfall will be constructed along the right bank inside of the North Lake Creek Floodway as shown in Figure 3. The project will include excavating in the floodway to install the storm drain pipe and outlet. Fill and riprap will also be placed as part of the project. The finish grade of the fill and riprap will match the pre-construction. The effective FEMA HEC-RAS model has a channel roughness value in the vicinity of the storm drain outfall of 0.06 which is higher than a 0.045 value for riprap. Revising the roughness to 0.045 value would either reduce the water surface elevation or keep it the same as the area is small. Based on this information a no-rise certification can be obtained.

Bowen Collins and Associates  
Core Architecture

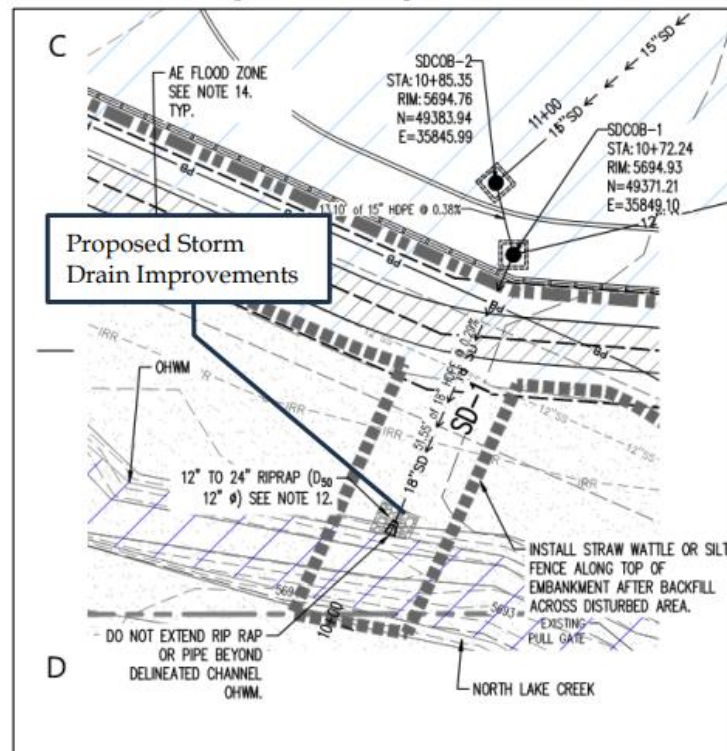
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**Figure 2 Trail Improvements**



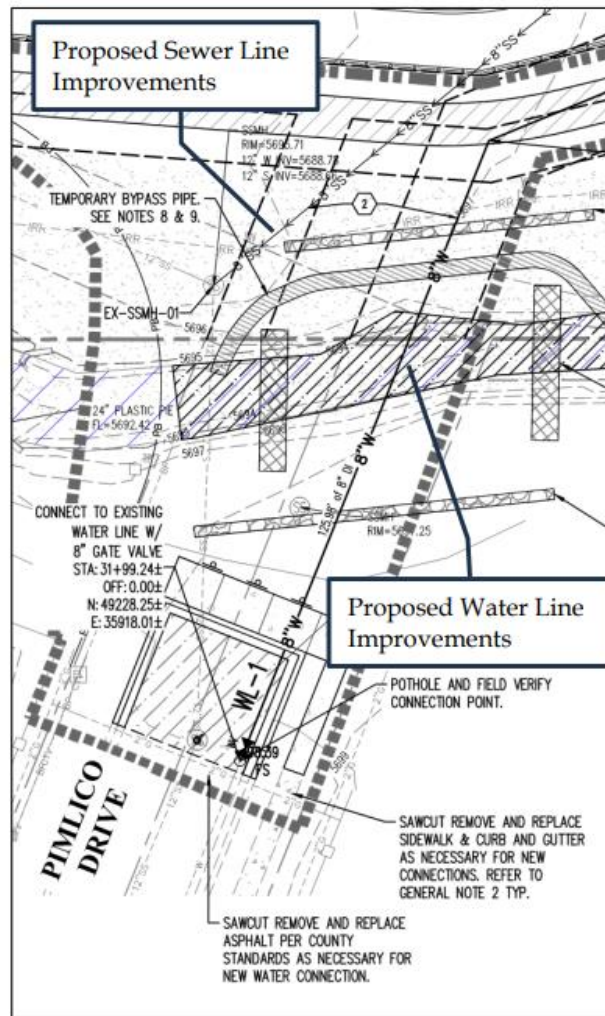
**Figure 3 Storm Drain Improvements**

## SEWER CONNECTION

There is an existing sewer line in the floodway that the project will be connecting into as shown in Figure 4. The project will excavate in the floodway, install the pipe, and restore the finish grade to the pre-constructing grade and existing conditions. The proposed sewer connection will have no impact on the riverine hydraulics, would not cause any increase in water surface elevation, and a no-rise certification can be obtained.

## WATERLINE CONNECTION

There is an existing waterline on the south side of North Lake Creek that the project will be connecting into by crossing the creek and Floodway as shown in Figure 4. The project will excavate in the floodway, install the pipe, and restore the finish grade to the pre-constructing grade and existing conditions. The proposed waterline connection will have no impact on the riverine hydraulics, would not cause any increase in water surface elevation, and a no-rise certification can be obtained.



**Figure 4 Sewer Line and Water Line Improvements**



**DEWATERING UNDER TEMPLE FOOTPRINT**

Due to the shallow groundwater and final subsurface elevation of the temple, long-term dewatering will be required (see the BC&A Heber Temple Dewatering Investigation Report (March 2023)). Groundwater is present about 10 to 15 feet below ground surface (bgs) at the site. These shallow groundwater conditions present challenges for dewatering and construction activities for the construction of the new Temple building. These shallow groundwater conditions will require both short term construction dewatering and long-term dewatering due to the subsurface elevation of the temple. The results of the investigation indicated there is up to 800 gpm (1.78 cfs) needed for the short-term dewatering and up to 250gpm (0.56 cfs) for the long-term dewatering. These numbers represent the max expected dewatering rates listed the Dewatering Investigation Report (March 2023) with the minimum values much lower.

The current effective FEMA discharge is 530 cfs and an increase of 1.78 cfs (short term) is approximately only a 0.34% over the current effective discharge and will cause no to negligible increase in water surface elevation (rounds to zero). The long term dewatering would cause an even less impact on water surface elevation. This also assumes that there is dewatering occurring which may not always be the case.

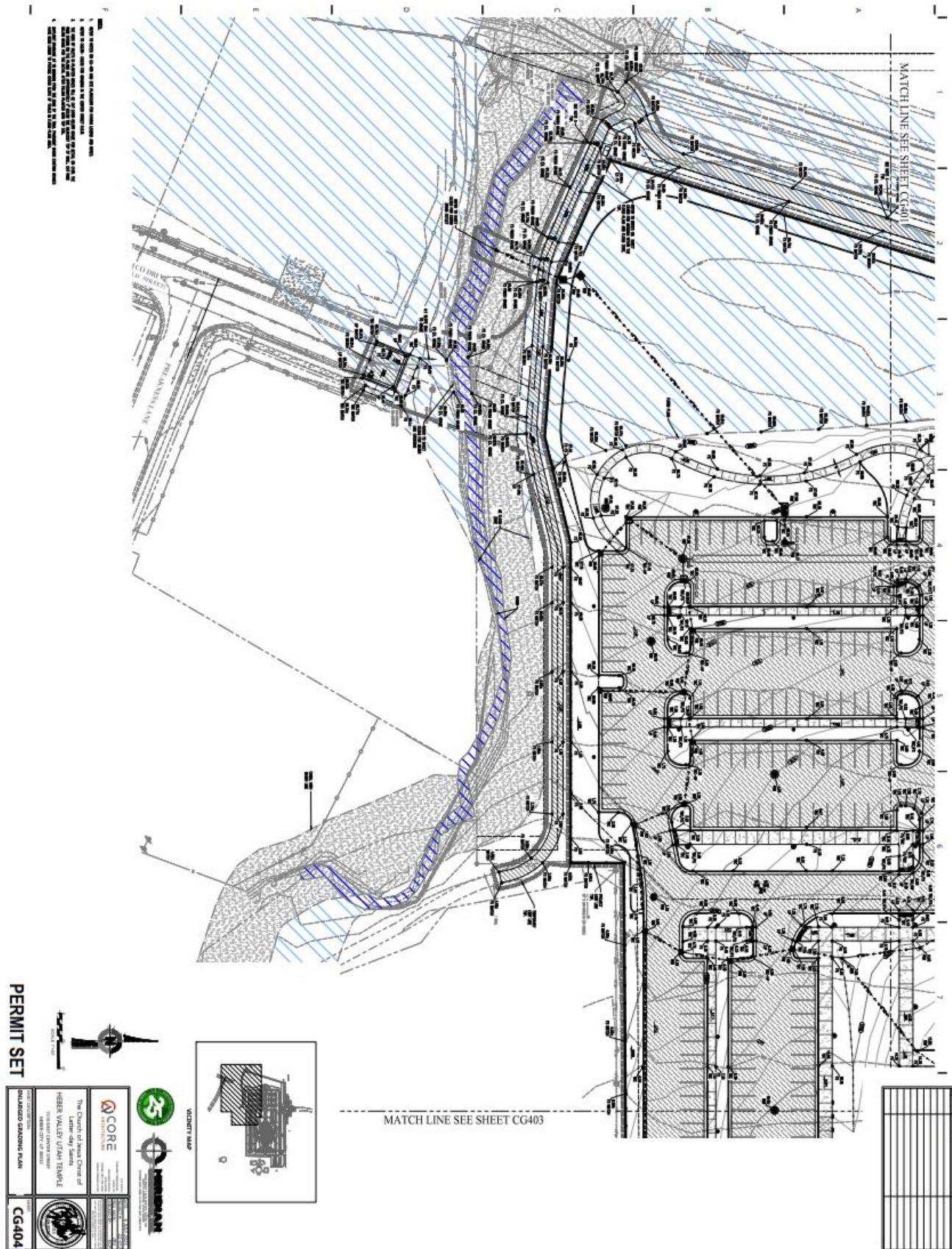
**NO-RISE CERTIFICATION**

This letter is to certify that I am duly qualified engineer licensed to practice in the State of Utah. It is to further certify that the technical data above supports the fact that proposed Heber Temple project work inside of the floodway will not impact the base flood elevations, floodway elevations, and floodway widths on North Lake Creek at published cross sections in the Flood Insurance Study for Wasatch County, dated March 15, 2012 and will not impact the base flood elevations, floodway elevations, and floodway widths at the unpublished cross-sections in the proposed development.

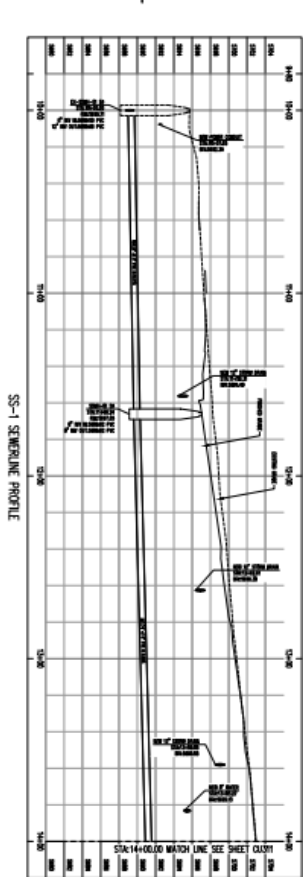
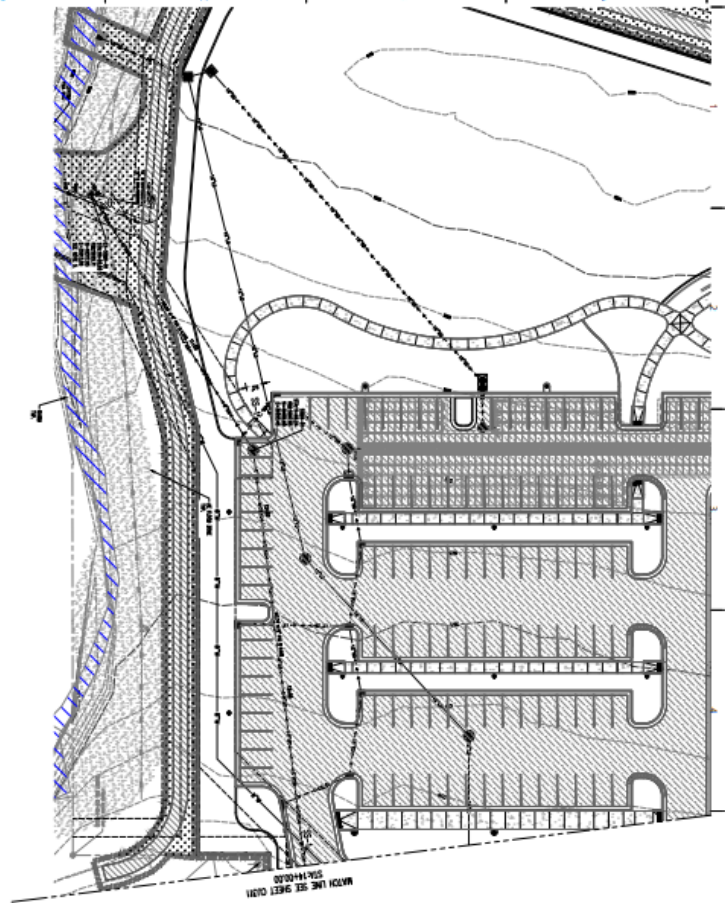
Sincerely,



Cameron Jenkins, P.E., CFM  
Bowen Collins & Associates







NO.	REVISION	DATE
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1. THE SEWER LINE SHALL BE 18" DIA. RCP.
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# PERMIT SET

25

CORE

CONSTRUCTION

HERRICK & ASSOCIATES

ENGINEERS

10000 10TH AVENUE, SUITE 200

DENVER, CO 80202

TEL: 303.733.1100

WWW.HERRICK-AND-ASSOCIATES.COM

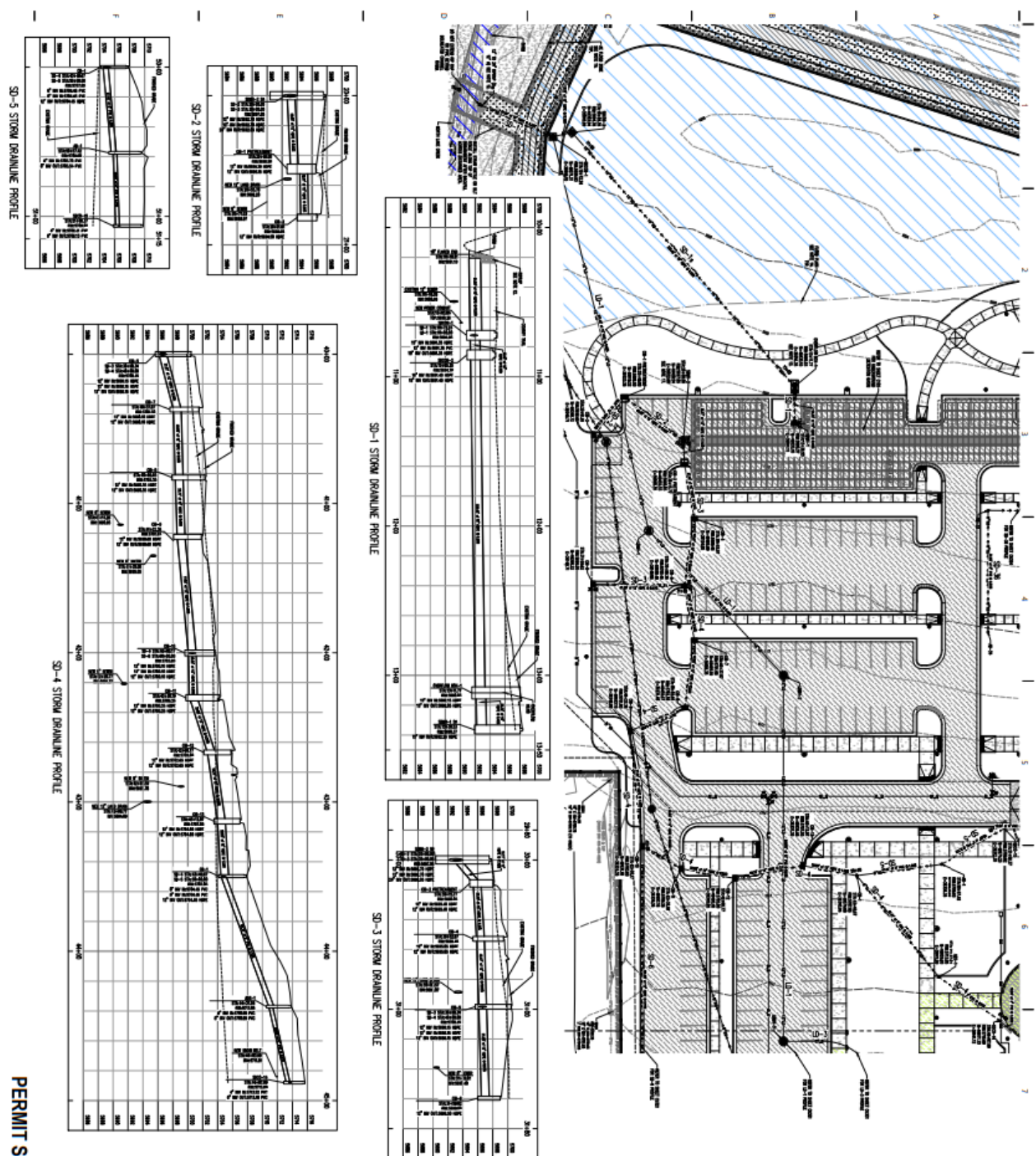
The Church of Jesus Christ of Latter-day Saints

HEBER VALLEY UTAH TEMPLE


TEMPLE CITY OF HEBER

SEWER PLAN AND PROFILE


CUS310




## PERMIT SET



**Hill Country**  
 TEXAS  
 OFFICE OF TOURISM  
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**Hill Country Chamber of Commerce**  
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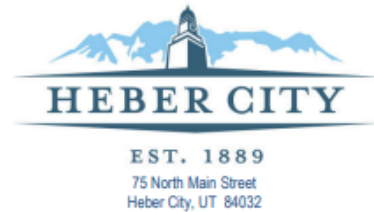
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**EXHIBIT O- Heber City traffic review letter**

October 16, 2023



Mr. Doug Smith  
Wasatch County Planning  
35 South 500 East  
Heber City, Utah 84032

**SUBJECT: LDS Temple Project  
Heber City - Traffic Impact Study Review**

Doug,

Per your request I am providing this letter outlining the Traffic Impact Study (TIS) requirements Heber City requested for the Temple Project, our review of the TIS, and a brief summary of the TIS Findings.

Heber City requested a TIS meeting UDOT Level 3 requirements or meeting UDOT Level 2 requirements with a 20-year Projection. We also requested that the study specifically analyze the following intersections/locations:

- 1) Main Street & 100 South
- 2) Main Street & Center Street
- 3) Center Street & Mill Road
- 4) Center Street & 2400 East
- 5) Mill Road & 1200 South
- 6) Mill Road & 600 South
- 7) Temple West Entrance (Center Street & Heritage Farms Parkway/East Bypass)
- 8) Temple East Entrance (Center Street)

A term used to describe the operating performance of an intersection or street is Level of Service (LOS). A LOS scale typically ranges from A, being the best, to F, representing failure or significant delays. Heber City's LOS standard is C.

The TIS included a Level of Service (LOS) analysis evaluating the intersections/locations listed above using the following scenarios:

- a) Existing/Background Conditions
- b) Project Conditions
- c) Future 2027 Background Conditions
- d) Future 2027 Plus Project Conditions
- e) Future 2042 Background Conditions
- f) Future 2042 Plus Project Conditions

**West Entrance Roundabout**

Before outlining the findings of the TIS further, I want to point out that a Preliminary Traffic Study submitted originally by the Applicant indicated that a LOS F was expected at the Temple

West Entrance location. During an initial Development Review Meeting held with the County, the Applicant, Heber City, and others, I requested that the Applicant consider installing a roundabout at that location to mitigate the concern. The Applicant agreed to this request and included the roundabout in future iterations of the TIS. With the mitigation of the roundabout installation, the TIS indicates that a LOS of A is anticipated at the West Entrance location in all of the future scenarios.

### **Background Conditions**

The Existing/Background Conditions scenario indicated that all of the intersections currently operate at an acceptable LOS with the exception of Mill Road & 600 South, which operates at a LOS F for a short time in the AM peak associated with the morning school rush. However, the report also indicates that this issue can be mitigated by installing a 4-way stop at that location, which has recently been completed by the City.

With the 4-way stop mitigation at Mill Road and 600 South, the TIS indicates the following with regard to Background Traffic (No Project).

- 2027 – No Deficiencies
- 2042 – Deficiencies
  - Mill Rd & Center – LOS F
  - Mill Rd & 600 South – LOS F
  - Mill Rd & 1200 South – LOS F

### **Plus Project Conditions**

The “Plus Project” scenarios were evaluated first without mitigation measures, and then again with recommended mitigation measures implemented. The LOS indicated below are without mitigation. However, with the recommended mitigation measures, each intersection can be brought within acceptable LOS.

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• 2027 – Deficiencies               <ul style="list-style-type: none"> <li>▪ Mill Rd &amp; Center – LOS E</li> <li>▪ Mill Rd &amp; 600 South – LOS F</li> </ul> </li> <li>• 2042 – Deficiencies               <ul style="list-style-type: none"> <li>▪ Mill Rd &amp; Center – LOS F</li> <li>▪ Mill Rd &amp; 600 South – LOS F</li> <li>▪ Mill Rd &amp; 1200 South – LOS F</li> </ul> </li> </ul> | <b>Recommended Mitigation</b> <ul style="list-style-type: none"> <li>- Signal</li> <li>- 4-Way Stop (already installed)</li> <li>- Signal</li> <li>- Roundabout</li> <li>- Signal</li> </ul> |
|--|--|

### **Position Relating to TIS Findings**

As you can see, each of the intersections with future deficiencies will be deficient by 2042 with or without the Temple Project. Impacts from the project will speed up the need for mitigation measures at these intersections, but the City has already included or is including projects in our Streets Master Plan to address these deficiencies. The City may or may not chose the same future mitigation measure recommended by the Temple TIS.

The typical method for addressing deficiencies caused by general growth is to assess impact fees to all new projects contributing to the need for future improvements. For this specific situation, the Temple Project is located in the County, impacting the City’s ability to charge impact fees for this project. In addition, the projected cost of the roundabout to be fully funded by the Church, exceeds the amount that the City would have charged the Applicant for Impact Fees if it

were a typical project located within the City. Because of these reasons, the City's legal counsel recommended that the City not pursue any additional impact fees related to the project.

### **Projected Trips**

The TIS indicates that the project will generate approximately 2,014 additional daily trips with AM and PM peaks of 172-173 trips per hour. For reference, this amount of daily trips is generally equivalent to a development of around 200 homes.

In addition, Temples typically don't generate the significant AM and PM peaks that are associated with other large projects such as schools. The daily trips associated with Temples are more evenly distributed throughout the day during operating hours.

### **Conclusion**

In addition to reviewing the TIS in-house, Heber City also sent it out to be reviewed by Horrocks Engineer's Traffic Engineering Team. The reviews resulted in minor comments which have been addressed by the applicant through the re-submittal and review process. Based on the review, the TIS appears to meet or exceed industry standards for these types of studies and is considered acceptable by Heber City.

Respectfully,

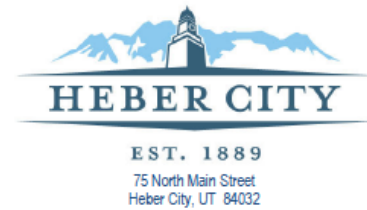


Russell Funk  
Heber City Engineer

cc: Kurt Mather, CORE Architecture  
Jason Sandburg, CORE Architecture  
Trulan Preece, Church of Jesus Christ of Latter Day Saints



July 6, 2023



Mr. Doug Smith  
Wasatch County Planning  
35 South 500 East  
Heber City, Utah 84032

**SUBJECT: LDS Temple Project  
Heber City Review / Requirements**

Doug,

The applicant for the LDS Temple Project has requested a letter be sent from Heber City to Wasatch County outlining our requirements for project approval and indicating the current status of our review.

This is a unique project for the City where the actual site is located in Wasatch County, but the project will front and require widening and improvements to a Heber City road (Center Street). As such, the appropriate process for the approval is a Roadway Dedication Plat, which is a staff level approval, with no formal approval required from the Planning Commission or City Council.

The application package required by the City for this project included the following:

- Geotechnical Report
- Storm Water / Drainage Report
- Traffic Impact Study
- Boundary Survey
- Road Dedication Plat
- Construction Drawings
- Draft Land Use MOU (Parties – Heber City, Wasatch County, LDS Church)

We are currently in the application review process, but have already completed at least one full round of reviews on all of the submitted documents. We provided our most recent round of comments back to the applicant on June 14<sup>th</sup> and are currently waiting on a re-submission.

At this point comments are relatively minor and addressing them is not anticipated to require significant changes to the general design or the anticipated land dedication required for the roadway. Once all of our comments have been addressed, we anticipate approving the application subject to final approval of the proposed Land Use MOU by the Wasatch County and Heber City Councils.

Once final approval is granted, Heber City will require the applicant to follow our standard construction process, which will include completing a standard Performance Agreement with the City, providing an assurance bond (cash or letter of credit) for the full amount of construction of

all public infrastructure, providing an inspection deposit/fees to cover inspection of the improvements, and to comply with our inspection, acceptance, and warranty processes.

Please let me know if you have any specific questions that I haven't answered. You can reach me at (435) 657-7929.

Respectfully,

A handwritten signature in blue ink that reads "Russell Funk". The signature is written in a cursive, flowing style.

Russell Funk  
Heber City Engineer

cc: Jason Sandburg, CORE Architecture  
Trulan Preece, Church of Jesus Christ of Latter Day Saints

## EXHIBIT P – DRC report



### Wasatch County DESIGN REVIEW COMMITTEE (DRC) COMMENTS

PROJECT ID: DEV-7924  
PROJECT NAME: FINAL SITE - HEBER VALLEY UTAH TEMPLE  
VESTING DATE: 5/19/2023  
REVIEW CYCLE #: 5

## REVIEW CYCLE STATUS: READY FOR DECISION

Project comments have been collected from reviewers for the above noted review cycle and compiled for your reference below. Please review the comments and provide revised plans/documents if necessary. **Resubmittals must include a plan review response letter** outlining where requested changes and corrections can be found. Failure to provide such a letter will result in the project being returned to you.

**When uploading revisions please name your documents exactly the same as it was previously uploaded. Revision numbers and dates are automatically tracked. There is no need to re-upload documents that aren't being changed. DO NOT DELETE documents and then upload new ones.**

Once you have addressed all of your items and successfully uploaded your revisions, be sure to re-submit your project for review. Resubmittal must be made through the portal in order to receive official review. Projects requiring Planning Commission approvals or recommendations will not be placed on a planning commission agenda until all DRC reviewers have recommended the item to move forward.

Entity	Decision
Sheriff's Office	Ready for Decision
Building Department	Ready for Decision
GIS Department	Ready for Decision
Weed Department	Ready for Decision
County Surveyor	Ready for Decision
Fire SSD	Ready for Decision
Health Department	Ready for Decision
Environmental Quality	Ready for Decision
Manager's office	Ready for Decision
Assessor's Office	No Action Taken
Engineering Department	Ready for Decision
DRC - SSA 1 Water	Ready for Decision
Planning Department	Ready for Decision
DRC - Twin Creeks SSD	Ready for Decision
Recorder's Office	Ready for Decision
MAG Regional Trail Planner	Ready for Decision
Public Works Department	No Action Taken

**Approved** = Reviewing entity has approved the project under consideration of their applicable codes. Any open comments are considered conditions of the entities recommendation.

**Ready for Decision** = Reviewing entity recommends the project move forward to a Planning Commission meeting (if applicable). Any open comments are considered conditions of the entities recommendation.

**Changes Required** = Reviewing entity has identified an issue(s) that needs to be resolved before recommending the project move forward.

**No Action** = Reviewing entity has not taken any action for the review cycle.

## OVERALL PROJECT COMMENTS

DRC Project Comments		
Comment ID	Entity	Comment
C-PLN-App-22	PLN - County Planning Approval	The letter from Heber City regarding the road improvements is not a final letter. The letter is still in the review process. It would be nice to have the final letter stating that the roads have been approved.
DRC-JSSD2	DRC - Jordanelle SSD	Construction drawing plan review to be coordinated and completed with District Engineer.

## PROJECT DOCUMENT SHEET COMMENTS BY REVIEWING ENTITY

DRC - Engineering Dept		
Comment ID	Sheet Name	Comment
DRC-ENG31	Other a - Dewatering Study	Condition of Approval: Provide verification that the dewatering system discharge quantities are at or below expected levels at 45 days after system completion and before final site approval.
DRC-ENG33	09 - Geotechnical Report	Condition of Approval: For approval of the subdivision construction permit, present an updated report which corrects; 1. The site class per AGEC Comment 4 in their 09/29/2023 review letter, 2. Contains a stamp by a Utah Licensed Geologist (this was included in previous versions of the letter), 3. Along with any other corrections which need to be made.

DRC - GIS Dept		
Comment ID	Sheet Name	Comment
DRC-GIS1	04 - Site Plan	This structure will need an address. I have assigned it an address. I will have this address added to the county tax system and our 911 data. Work with me if if you have any questions.  New Address: 1516 E CENTER ST  Ivan Spencer ispencer@wasatch.utah.gov

EXT – MAG Regional Trail Planner		
Comment ID	Sheet Name	Comment
DRC-MAG1	02a - Plat	Conditional approval. Per County code the trails should connect to the adjacent properties trails, specifically on Pimlico Drive.



**EXHIBIT Q – Fiscal Review by Attorney and Clerk**



**WASATCH COUNTY ATTORNEY**

805 West 100 South  
Heber City, Utah 84032  
Telephone (435)654-2909  
Facsimile (435) 654-2947

SCOTT H SWEAT  
COUNTY ATTORNEY

MCKAY G KING  
S. CASE WADE  
JON WOODARD  
MICHAEL A. SNELL  
SHELBY M. THURGOOD  
ALEX D. STOEDTER

September 15, 2023

To Whom It May Concern;

In conjunction with the application for the Heber Valley Temple project by Core Architecture, for the Church of Jesus Christ of Latter Day Saints, the applicant has requested the County consider an ordinance adopting a development agreement for the project. I have conducted a review of the legal implication of the proposed ordinance submitted on September 11, 2023, and the proposed development agreement submitted with it. I have no legal objections to these documents and do not find any material issues that would prevent me from approving them as to form, as drafted.

Sincerely,

A handwritten signature in black ink, appearing to be "Jon Woodard", is written over a horizontal line. Below the signature, the name "Jon Woodard" and title "Deputy County Attorney" are printed.

Jon Woodard  
Deputy County Attorney

COUNTY MANAGER  
Dustin A. Grabau



COUNTY COUNCIL

Luke Searle  
Steve Farrell  
Erik Rowland  
Kendall Crittenden  
Mark Nelson  
Karl McMillan  
Spencer Park

The Office of the Wasatch County Clerk/Auditor received an "Application for the Adoption of an Ordinance Approving Development Agreement for Heber Valley Temple Site" date stamped 9-11-2023 at 2:56 pm MST.

The Wasatch County Auditor has conducted an unbiased, good-faith fiscal review of the proposed ordinance. In doing so, the Auditor analyzed several factors that may affect the estimated cost of implementing the proposed ordinance. Below is an overview of the factors that were considered and a written recommendation regarding the fiscal implications of the proposed ordinance. The parameters of the fiscal review were limited to analyzing the cost of implementing the proposed ordinance. External, economic, community, and/or other potential impacts are outside the scope of the review.

In conducting the fiscal review, all of the following were considered:

1. Whether the proposed ordinance would impose a fiscal impact on the county's payroll and benefits costs.
2. Whether the proposed ordinance would impose a fiscal impact on taxes or impose a new tax.
3. Whether the proposed ordinance would impact tax rates financially.
4. Whether the proposed ordinance would impose a fiscal impact on the issuance or change in bond status, notes, or other debt instruments.
5. Whether the proposed ordinance would impose a fiscal impact on the cost or savings to local government entities.
6. Whether the proposed ordinance would increase costs to the County.

The Wasatch County Auditor estimates that implementing the proposed ordinance would have no significant fiscal impact on the County and would not result in an increase or decrease in taxes or debt. The Wasatch County Clerk/Auditor asks the Planning Department to relay this information to the County Legislative Body with its staff report on the proposed ordinance.

Respectfully submitted this 19th day of September 2023.

A handwritten signature in blue ink, reading "Joey D. Granger".

~ Joey D Granger, Wasatch County Clerk/Auditor



ASSESSOR Todd Griffin	ATTORNEY Scott Sweat	CLERK/AUDITOR Joey D Granger	RECORDER Marcy Murray	SHERIFF Jared Rigby	SURVEYOR James Kaiserman	TREASURER Diane G Burgener	JUSTICE COURT JUDGE Brook Sessions
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## EXHIBIT R – Heber City MOU

[NOTE TO COUNTY: THIS INITIAL DRAFT IS BEING SUBMITTED BY THE CHURCH OF JESUS-CHRIST OF LATTER-DAY SAINTS IN CONNECTION WITH AN APPLICATION FOR A TEMPLE SITE IN WASATCH COUNTY. THE CHURCH ANTICIPATES THAT THE PARTIES WILL EDIT AND REVISE THIS DRAFT AS THE COUNTY'S DESIGN REVIEW PROCESS PROCEEDS.]

### MEMORANDUM OF UNDERSTANDING

#### **(Maintenance of a Portion of Center Street)**

This *Memorandum of Understanding* (“MOU”) is made by and among Wasatch County, a political subdivision of the State of Utah (“County”), Heber City, a political subdivision of the State of Utah (“City”), and the Church of Jesus Christ of Latter-day Saints, a Utah corporation sole (“Owner”), effective as of the date signed by all parties, as evidenced on the signature page(s) hereto (“Effective Date”). The County, City, and Owner are each a “party” to this MOU, collectively they are the “parties” hereto.

#### **RECITALS**

**A.** Owner holds title to certain parcels of real property located in Wasatch County, Utah, commonly known as Wasatch County Parcel Nos. 08-9990 and 12-1884 (collectively, the “Property”).

**B.** The Property comprises approximately 17.23 acres of land and is adjacent to, and to the south of, Center Street. Owner proposes to develop the Property as a site for religious worship. A site plan for the intended project (“Site Plan”) is attached hereto as Exhibit A.

**C.** The Property is within the unincorporated portion of Wasatch County. The portion of Center Street which is adjacent to the Property (“Designated Street Segment”) is largely within the municipal boundaries of Heber City. However, a portion of the right of way for the Designated Street Segment will remain within the unincorporated portion of Wasatch County.

**C.D.** Owner has applied to the County for a Site Plan and a final subdivision application for a Small-Scale Subdivision for the Temple Project (“County Applications”), and all rights and obligations in this MOU are conditioned upon County approval of the final subdivision approval and site plan approval.

**D.E.** Because the Designated Street Segment will lie within two different jurisdictions, in this MOU, the parties wish to set forth their respective obligations relating to the improvement and maintenance of the Designated Street Segment.

#### **AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the parties agree as follows:



1. Recitals Incorporated. The foregoing Recitals are incorporated into, and made part of, the parties agreement.

2. Dedication of Right of Way. Owner will dedicate a portion of the right of way for the Designated Street Segment to the public. Even though such portion of the right of way is located in unincorporated Wasatch County, Owner will dedicate the right of way to the City and the City will accept such dedication.

3. Parties' Construction Obligations.

3.1. New Collector Street. A new collector street ("**New Collector Street**") is anticipated to be constructed going north from Center Street on the north side of the Property and east of the Humbug Canal. With the exception of the Roundabout and connection of the Roundabout into said New Collector Street, Owner will not be responsible for construction or costs associated with the New Collector Street.

3.2. Roundabout. The parties agree that a traffic roundabout ("**Roundabout**") will be installed as a traffic control device at the intersection of the New Collector Street and Center Street pursuant to standards and a final design to be approved by the City. Owner will be solely responsible for design, construction and all related costs of the Roundabout.

3.3. Right of Way Improvements. The Owner will be solely responsible for installing the street, gutter, and other right of way improvements on the south side of the Designated Street Segment, including, pavement, curb, gutter, sidewalk, and other improvements beyond the back of curb consistent with the Site Plan. Improvements within the traffic right of way will be installed pursuant to standards set by the City. Other improvements will be installed pursuant to applicable standards imposed by the County. Owner shall have no responsibility to install any improvements on the north side of the Designated Street Segment with the exception of those required for the Roundabout including surface restoration.

3.4. Lighting. Owner will install all street lighting for the Designated Street Segment which will include (south side only): two streetlights on the Roundabout (one on the northeast and one on the southwest); one streetlight at the west side of the east entrance to the Property; and three other streetlights along the frontage of the Property according to the Heber City Standards. All streetlights on the Property will comply with the County's recently-adopted Exterior Lighting Ordinance (Ordinance No. 23-01).

3.5. Pedestrian Trail. As shown on the Site Plan, Owner will install a perimeter trail ("**Trail**") on the exterior of the Property adjacent to the Designated Street Segment. Owner may elect to install light bollards on the Trail consistent with applicable standards imposed by the County.

4. Parties' Maintenance Obligations.



**4.1. City's Obligation.** The City hereby accepts the obligation to maintain the right of way improvements for the Designated Street Segment to the back of curb. The City shall also maintain all streetlights within the Designated Street Segment built according to Heber Standards.

**4.2. Owner's Obligation.** Owner hereby accepts the obligation to maintain all right of way improvements (except street lighting) beyond the back of curb consistent with applicable standards imposed by the County. The Owner will maintain the Trail and any light bollards consistent with applicable standards imposed by the County.

**5. Term of MOU.** The term of this MOU will be twenty-five (25) years after the Effective Date, unless previously terminated by the joint agreement of all parties. This MOU may be recorded with any final plat for the Property. The maintenance requirements of the Owner are intended to run with the land, and shall remain for the life of the project approved with the County Applications, unless the County or another governmental entity assumes those maintenance obligations in writing.

**6. Approvals.** Each party represents and warrants to the other parties that the representing party has received all approvals necessary to execute this MOU and perform hereunder. Owner has applied for the County Applications, and all rights and obligations in this MOU are conditioned upon County approval of the County Applications, and the recording of the associated final plat. County may execute the MOU prior to approval or denial of the County Applications.

**7. Default and Remedies.** No party will be deemed in default under this MOU unless the defaulting party is given written notice and the alleged default remains uncured for a period of thirty (30) days after such party's receipt of written notice. The parties will be entitled to pursue any remedy available at law or in equity with respect to a breach of this Agreement; provided, however, that no party will be liable for any indirect, consequential, or exemplary damages.

**8. No Personal Obligations.** No employee, officer, official, representative, elected officer, or agent will be personally liable for the obligations and duties of any party to this MOU.

**9. Notices.** Any notice required or permitted hereunder must be given in writing via personal delivery, overnight delivery by a national carrier, or certified U.S. Mail. The parties' addresses for notice are set forth on the signature page(s) to this MOU. Any party may change its address for notice by giving written notice of the change in the manner provided herein.

**10. No Assignment.** The parties' rights and obligations under this MOU may not be assigned or transferred without the consent of the other parties to this MOU.

**11. Miscellaneous.** This MOU is for the benefit of the parties hereto only. No third-parties are intended as beneficiaries or parties with rights hereunder. This MOU may be executed in

counterparts. This MOU represents the entire agreement of the parties with respect to the subject matter of this MOU. This MOU may be amended only in a written instrument signed by all parties. This MOU is governed by the laws of the State of Utah. In the event of any action to interpret or enforce this MOU, the parties consent to the jurisdiction courts situated in Wasatch County, Utah.

*[End of MOU. Signature Page(s) Follow:]*

**EXHIBIT S – Legislative Development Agreement**

**[NOTE TO COUNTY: THIS INITIAL DRAFT IS BEING SUBMITTED BY THE  
CHURCH OF JESUS-CHRIST OF LATTER-DAY SAINTS IN CONNECTION WITH AN  
APPLICATION FOR A TEMPLE SITE IN WASATCH COUNTY. THE CHURCH  
ANTICIPATES THAT THE PARTIES WILL EDIT AND REVISE THIS DRAFT AS  
THE COUNTY’S DESIGN REVIEW PROCESS PROCEEDS.]**  
**SEPTEMBER 5, 2023 REVISION**

When Recorded Return To:

THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS  
Attn: David A. Channer, Assoc. General Counsel  
50 E. North Temple Street, Room 288W  
Salt Lake City, Utah 84150-0302

KIRTON | McCONKIE  
Attn: Loyal C. Hulme and Daniel C. Dansie  
50 E. South Temple Street, Suite 400  
Salt Lake City, Utah 84111

**DEVELOPMENT AGREEMENT FOR THE  
HEBER VALLEY UTAH TEMPLE**

This DEVELOPMENT AGREEMENT FOR HEBER VALLEY UTAH TEMPLE (“**Agreement**”) is entered into as of this [\_\_\_\_\_] day of [\_\_\_\_], 2023, by and between THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole (“**Owner**”, further defined below), and WASATCH COUNTY (“**County**,” further defined below), a political subdivision of the State of Utah. Owner and the County may hereinafter be referred to individually as a “**Party**” to this Agreement and collectively as the “**Parties**” hereto. This Agreement supersedes and replaces any previous agreements entered into or representations made by and between the Owner and the County involving the Property, defined below.

**RECITALS**

A. The County, acting pursuant to its authority under Utah Code §§ 17-27a-101, *et seq.*, 17-53-223, 17-53-302(13),<sup>1</sup> as amended, or the Wasatch County Code (“**County Code**”, further defined below), as amended, and in furtherance of its land use policies, goals, objectives, ordinances, and regulations, in the exercise of its discretion, has elected to approve and enter into this Agreement.

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<sup>1</sup> All references to the Utah Code and County Code are references to the provisions in force as of the Acceptance Date, defined below.



B. Owner holds legal title to the real property, consisting of approximately 18.17 acres located in the unincorporated portion of the County, as described in **Exhibit A** attached hereto (“**Property**”).

C. The Property currently has a zoning designation of RA-1 Residential Agricultural (“**Zone**”). The Owner has not applied for, nor is the County approving, a change to the zoning map or the text of Title 16 of the County Land Use and Development Code.

D. Owner is seeking to develop the Property as a site consisting primarily of a house of worship for adherents of the Church of Jesus Christ of Latter-day Saints (“**Temple**”) together with other gardens, parking, and other uses appropriate for the Temple (the development of the Property consistent with this Agreement being the “**Project**”). Section 16.04.02 of the County Code defines a “Church or Temple” as a “building, together with its accessory buildings and uses, where persons regularly assemble for worship, which building, together with its accessory buildings and uses, is maintained and controlled by a religious body.” Under a page titled, “What is the Purpose of the Temple?,” the website of the Owner indicates the following regarding Owner’s beliefs related to its temples:

For members of the Church, a temple is the most sacred place of worship on the earth. It is unique from all other places of worship. It is designated as the only place where families can be united forever and where the most sacred gospel ordinances are performed. It is also a place where you can feel closer to Heavenly Father and Jesus Christ, a place of peace and revelation, a place where family relationships are strengthened, and a place to seek direction concerning life’s challenges.<sup>2</sup>

E. The County finds that the Project meets the definition of “Temple” because, among other things, the Temple will be used as a place where adherents of the Church of Jesus Christ of Latter-day Saints will regularly assemble to worship. The Owner has indicated that primary building of the Temple will be used for religious ordinances at least five (5) days a week, and the gardens, landscaping, and other uses within the Project will support the worship taking place in the Temple. This planned use of the Temple is consistent with how other temples owned and operated by Owner are used throughout the world. Thus, the County finds that “Church or Temple” is the appropriate use category for the Project. The County finds that the Temple will be considered under the general and more prevalent land use of “church” as used in the County Code.

F. The parties understand and agree that pursuant to Utah Code § 17-27a-528(2)(a)(iii), this Agreement allows for the “use or development of land that applicable land use regulations governing the area subject to [this Agreement] would otherwise prohibit” because the County’s “legislative body [has] approve[d] this Agreement in accordance with the same procedures for enacting a land use regulation.” This Agreement has been approved according to the processes set forth in Utah Code § 17-27a-502. The uses and Development rights that the otherwise applicable

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<sup>2</sup> <https://www.churchofjesuschrist.org/study/manual/families-and-temples/what-is-the-purpose-of-the-temple?lang=eng> (accessed on 5.30.2023).

land use regulations may prohibit are set forth in, among other places, Section 4 and Section 8 of this Agreement and their respective subparts. However, except as expressly set forth in this Agreement, Development of the Project will be pursuant to, and comply with, the County Code and other provisions of Applicable Law.

G. On May 9, 2023, Owner submitted the following applications related to the Project and paid all applicable fees (collectively, the “**Applications**”): (1) a final application for a Site Plan; and (2) a final subdivision application for a Small-Scale Subdivision. The Applications were deemed complete and accepted by the County on May 19, 2023 (“**Acceptance Date**”).

H. The County finds that the Project is consistent with the General Plan. Among other things, and in addition to findings made elsewhere in this Agreement, the County finds that the Project will enhance quality of life in Wasatch County and provide economic opportunities. (*See* General Plan, Chapter Three, Objective 11.1.) The County finds that some residents of the County are adherents of, or otherwise affiliated with, the Church of Jesus Christ of Latter-day Saints. The County further finds that worship in buildings such as the Temple forms an integral part of the spiritual life of adherents of the Church of Jesus Christ of Latter-day Saints. Consequently, the Project will satisfy a social need and enhance the quality of life for some County residents by providing a location for such persons to engage in religious worship that is important to those adherents, and otherwise exercise religious liberty. Based on the information associated with other temples operated by the Church of Jesus Christ of Latter-day Saints, the County finds that the Temple, and the adjoining grounds comprising the Project, will likely be a community attraction which draws persons from outside the County—indeed, from outside the State of Utah—including both adherents and non-adherents of the Church of Jesus Christ of Latter-day Saints, to visit the County. Visitors are likely to come for many reasons, including, to tour the Temple before it commences operations (which tours are open to the general public), to participate directly in ceremonies and ordinances held in the Temple, and to support or celebrate with persons who are participating in such ceremonies and ordinances. In so doing, visitors are likely to patronize local businesses or otherwise positively contribute to the County’s economy. Further, the County finds that one of the ordinances performed in the Temple, marriages, is likely to create the need for new or additional business within the County which are compatible with this use, such as wedding reception or celebration venues, catering operations, and the like. The County further finds that the Project will contribute to the existing Wasatch County Trail System. (*See* General Plan, Chapter Three, Objective 10.2.) As set forth more particularly in Section 8.9, below, the Project will incorporate a perimeter trail system which will be open to, and accessible by, the public. The County further finds that the Project will have dark sky compliant lighting. (*See* General Plan, Chapter Three, Policy 1.1.7.) As set forth more particularly in Section 8.5, below, the Project will comply with the provisions of the County’s recently-adopted Exterior Lighting Ordinance.

I. The County finds that pursuant to the Religious Land Use and Institutionalized Persons Act (“**RLUIPA**”) and the Utah Religious Land Use Act (“**URLUA**”) good cause exists for entering into this Agreement, establishing the rights set forth herein, and subjecting the Property to the obligations set forth herein. Among other things, the County makes the findings set forth in this Recital and incorporates findings made elsewhere in this Agreement, including other Recitals.

Adherents of the Church of Jesus Christ of Latter-day Saints consider the temples to be holy places which they refer to as the “House of the Lord.” Participation in ceremonies and ordinances performed only in temples constitute the highest form of earthly worship for adherents of the Church of Jesus Christ of Latter-day Saints. The number of adherents of the Church of Jesus Christ of Latter-day Saints within the geographic area to be served by the Temple, the projected growth of the County and surrounding areas, and visitors, including visitors from outside the State of Utah—who are likely to visit the Temple, requires that the Temple be of sufficient size and height, including the massing components approved herein, and contain sufficient facilities, to accommodate the needs of such persons. Likewise, the County finds, as asserted by the Owner, that one purpose of the exterior design, height, and other features of the exterior of the Temple is to inspire or encourage adherents of the Church of Jesus Christ of Latter-day Saints to “look to heaven” (which is symbolic to such adherents of the presence of God) and to remember the important components of the worship which take place in the interior of the Temple even when such adherents do not physically enter the Temple. Some courts have recognized the specific religious importance of exterior features, such as steeples, found in or on the temples constructed by the Church of Jesus Christ of Latter-day Saints. *See, e.g., Martin v. Corp. of Presiding Bishop of The Church of Jesus Christ of Latter-day Saints*, 747 N.E.2d 131, 137 (Mass. 2001) (Upholding a local land use authority’s determination that it “is clearly part of [the church’s] theology to reflect, in their buildings, the belief of an ascension towards heaven” and “that steeples, by pointing towards heaven, serve the purpose of lifting [church members’] eyes and thoughts towards heaven.”) Thus, pursuant to RLUIPA and URLUA the County finds, and Owner agrees, that allowing the Temple to have the size, height, massing, and other characteristics provided for herein is the least restrictive means of protecting the County’s compelling interest in regulating land use and design of developments within the County and that greater or stricter restrictions than provided for in this Agreement would unreasonably limit the religious structure and assembly contemplated herein.

J. On [date of Planning Commission hearing], following review and recommendation by the County’s Development Review Committee, and after notice as required under Utah Code § 17-27a-205, the Applications were recommended at a public hearing by the Wasatch County Planning Commission (“**Planning Commission**”) to the County legislative body. The Planning Commission also recommended that this Agreement be forwarded for consideration by the County’s legislative body (“**County Council**”, further defined below). Because this Agreement is a legislative development agreement in connection with which the Applications are also being considered and approved, the County Council will serve as the land use authority for the Applications. *See* Section 16.01.05 of the County Code; Utah Code § 17-27a-103, 501, 528.

K. The Parties desire to enter into this Agreement to memorialize certain conditions and agreements which relate to the Project and to help clarify the process for development of the Project. Without limitation, the purpose of this Agreement is to: (1) enumerate the process of the Applications as permitted uses for the Property and the approved scope of the Project; (2) identify processes for mitigating any environmental impacts; (3) ensure installation of necessary on-site and off-site public improvements; (4) make provision for trail facilities; (5) provide for the timely payment of all fees and charges, including impact fees in the amounts set forth herein; (6) ensure

that public services appropriate to the development of the Project are provided; (7) provide for the maintenance of water retention facilities, trails and open space within the Project during construction and after completion; (8) otherwise achieve the goals and purposes of the County and Owner; (9) identify responsibilities of the Owner and subsequent developers; (10) designate all improvements committed to by the Owner as part of the Final Plan Approval process; (11) provide for the dedication of certain property for the improvement of public roads; (12) provide a record of minutes, staff reports, Power Point presentations and plans; and (13) clarify the approval of the Applications in accordance with Applicable Law as modified by this Agreement.

L. On [date of County Council hearing], after notice as required under Utah Code § 17-27a-205, the County Council adopted Ordinance No. [insert ordinance number] (“**Temple Project Ordinance**”) approving the Applications and this Agreement. Such approvals are collectively referred to herein as the “**Current Approvals**.”

M. The Parties intend that this Agreement, and the County’s approval of this Agreement pursuant to the Temple Project Ordinance, constitute a Land Use Regulation, as that term is defined in Utah Code § 17-27a-103.

N. Each Party acknowledges that it is entering into this Agreement voluntarily, having had the chance to review the Agreement and the terms hereof with attorneys and other advisors of such Party’s choosing.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and provisions set forth herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

## **AGREEMENT**

### **SECTION 1. EFFECTIVE DATE AND TERM**

1.1. Effective Date. This Agreement shall become effective on the date it is executed by Owner and the County (“**Effective Date**”). The Effective Date shall be inserted in the introductory paragraph preceding the Recitals.

1.2. Term of Agreement.

1.2.1 Term. Subject to Section 1.2.2, the term of this Agreement (“**Term**”) shall continue for a period of up to Twenty-Five (25) years after the Effective Date, unless otherwise agreed between the County and Owner in writing. In connection with all Development Applications for Development activities related to the Project, Owner will proceed with reasonable diligence in conformity with Section 16.1.16 of the County Code. Legal challenges that may toll the ability of the County or the Owner to move forward as required under Section 16.01.16 of the County Code and will toll the deadlines therein.



1.2.2 Continuing Nature of Approvals. Upon termination of this Agreement, for any reason, the existing or prospective obligations of the Parties to each other hereunder shall terminate, but none of the recorded plats, site plans, licenses, building permits, or certificates of occupancy, or other approvals granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner due to the expiration or termination of this Agreement. No easements, maintenance requirements, infrastructure improvement obligations, or other agreements which are intended to run with the land, including obligations that were based upon such approvals, shall expire upon termination or expiration of this Agreement.

1.3 Legislative Enactment. As set forth in the foregoing Recitals, this Agreement has been approved by the County Council pursuant to Utah Code § 17-27a-502 after notice as required under Utah Code § 17-27a-205. Thus, pursuant to Utah Code § 17-27a-528, and as set forth in the Recitals, this Agreement allows uses and Development of land that applicable land use regulations would otherwise prohibit. The County Council finds this Agreement is consistent with the General Plan in all material respects for this Project, notwithstanding any particular provision or provisions of the General Plan which may be interpreted to be inconsistent with this Agreement, and regardless of any contrary provision of the County Code.

## SECTION 2. DEFINITIONS

The terms or phrases below shall have the meanings given in this Section when used in this Agreement. Other terms may be defined elsewhere in the Agreement. Unless otherwise indicated, the plural of any term shall have the same meaning as the singular, and vice-versa.

“**Acceptance Date**” means May 19, 2023, the date the County accepted the Applications.

“**Applicable Law**” has the meaning set forth in Section 4.4.1 of this Agreement.

“**Applications**” has the meaning set forth in the Recitals of this Agreement.

“**Changes in the Law**” has the meaning set forth in Section 4.4.3 of this Agreement.

“**City**” means Heber City, a municipal corporation and a political subdivision of the state of Utah.

“**Conditions to Current Approvals**” has the meaning set forth in Section 3.1.2 of this Agreement.

“**County**” means Wasatch County, a political subdivision of the State of Utah, and shall include, unless otherwise provided, any and all of the County’s agencies, bodies, departments, officials, employees or agents. References herein to findings made by the County mean findings made by the County Council, which findings may have been recommended by the Planning Commission.

**“County Code”** means the Wasatch County Code in effect as of the Acceptance Date.

**“County Council”** means the County’s governing legislative body.

**“Current Approvals”** has the meaning set forth in the Recitals of this Agreement.

**“Development”** means the planning, design and construction of buildings, amenities, infrastructure and other improvements pursuant to and consistent with the Current Approvals.

**“Development Application”** means any application for the approval of Development within the Project, to the extent an application is required under the Applicable Law, which is submitted after the Effective Date.

**“Director”** means the Director of the Wasatch County Planning and Zoning Department (or any successor body or department which oversees approval of planning and development for the County), or his or her designee.

**“Effective Date”** means the date referred to in Section 1.1 of this Agreement.

**“Exterior Lighting Ordinance”** means Ordinance No. 23-01 adopted by the County Council at a duly noticed public meeting on April 19, 2023. The Exterior Lighting Ordinance has sometimes been referred to by the County and others as the **“Dark Sky Ordinance.”**

**“Final Plan”** means the proposed final site plan for the Property which is attached as **Exhibit B** to this Agreement.

**“General Plan”** means the General Plan of Wasatch County, as approved by the County Council, which is in effect as of the Acceptance Date.

**“LUDMA”** means the County Land Use, Development, and Management Act, Utah Code § 17-27a-101, *et seq.*

**“MOU”** has the meaning set forth in Section 8.6 of this Agreement.

**“Owner”** means those entities or persons identified as Owner in the preamble, and shall include Owner’s successors in interest, transferees and assigns, including, where applicable, assignments to successors in interest or assignees of Owner’s rights and obligations under this Agreement. The obligations of Owner shall automatically be assigned to subsequent purchasers of the Project, and subsequent purchasers of the Project or any portion thereof shall expressly assume the obligations of Owner pursuant to this Agreement.

“**Project**” means the Property and the development on the Property which is the subject of this Agreement, any ancillary and additional improvements or endeavors incident to the development of the Project.

“**Project Improvements**” means all infrastructure improvements intended for public or private use and located within the boundaries of the Project, including but not limited to sewer lines, water lines, roads, electricity, gas, telephone, detention basins, curb and gutter, trails, and recreational facilities.

“**Property**” means the parcel or parcels of land which are the subject of this Agreement, and which are more particularly described in **Exhibit A**.

“**RLUIPA**” means the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc, *et seq.*

“**Temple**” has the meaning set forth in the Recitals of this Agreement.

“**Temple Project Ordinance**” has the meaning set forth in the Recitals of this Agreement.

“**URLUA**” means the Utah Religious Land Use Act, Utah Code §§ 63L-5-101, *et seq.*

### **SECTION 3. OBLIGATIONS OF OWNER AND THE COUNTY**

#### **3.1. Obligations of Owner.**

3.1.1. Generally. The Parties acknowledge and agree that the County’s agreement to perform and abide by the covenants and obligations of the County set forth herein is material consideration for Owner’s agreement to perform and abide by the covenants and obligations of Owner set forth herein.

3.1.2. Conditions to Current Approvals. Owner shall comply with all of the following conditions (collectively “**Conditions to Current Approvals**”):

3.1.2.1. Compliance With Conditions Imposed by County. Owner agrees to comply with the conditions recommended and approved by County Council in connection with the approval of the Applications as set forth in this Agreement or attached hereto as **Exhibit C**. Owner understands and agrees that the representations made by Owner as part of the approval of the Applications are part of the basis for such approval and as such are integral components of the Current Approvals.

3.1.2.2. Payment of Administrative Fees. Owner agrees to pay all generally applicable Wasatch County fees required under Applicable Law as a condition of developing the Property and Project.

3.1.2.3. Payment of Impact Fees. Wasatch County has enacted an impact fee ordinance. Subject to adjustments approved by the Director or the County Council, Owner agrees to pay the applicable impact fees due and payable in connection with any structure built by Owner, or Owner's agent, employee, contractor, or subcontractor.

3.1.2.4. Payment of Special Service District Fees and Charges. Owner agrees to pay any and all fees imposed by the service districts providing services to the Project, including (but not limited to) fees for plan check and engineering review. The following services will be provided to the Project by special service districts, each of which has issued to Owner a "will serve" letter agreeing to provide the applicable services to the Project:

<b>Service</b>	<b>Entity Providing Service</b>
Culinary Water	Twin Creeks Special Service District
Irrigation Water	Twin Creeks Special Service District
Trash Removal	Wasatch County Solid Waste Special Service District
Sanitary Sewer	Twin Creeks Special Service District
Electricity	Heber Light & Power

3.1.3. Construction of Project Improvements. Owner will construct the Project Improvements associated with the Project, consistent with the Final Plan. Project Improvements include: (a) any roads and other improvements within the public rights-of-way within the Project, sidewalks, curb, gutter, street lighting, signage, and wet and dry utilities within such rights-of-way, within or adjacent to the perimeter or boundary of the Project; (b) all emergency and secondary access to the Project to the extent set forth in the Final Plan; (c) utility lines or facilities within the Project, or adjacent to the Project and necessary to provide utility service for the Project; (d) trails shown as shown on the Final Plan, including within or adjacent to the Project; (e) landscaping in areas inside of Project; and (f) all other improvements or dedications that are required within the Project or adjacent to the Project required by the County Code. Project Improvements shall be inspected and accepted by the County or other applicable utility service providers in writing prior to the issuance of a certificate of occupancy for any building within the Project. As set forth in Section 8.5 of this Agreement, the lighting shall be installed in a manner that meets the requirements of the Lighting Plan, as defined in Section 8.5, below, including any fine tuning of the foot-candle levels, shielding or other lighting installation issues, prior to issuance of a certificate of occupancy for the Temple. Also, for the avoidance of doubt, to the extent Twin Creeks Special Service District or any other utility provider will own or operate any portion of the Project Improvements, such portion of the Project Improvements will be constructed to the standards required by such utility provider. When construction is complete, such portion of the Public Improvements will be approved by the applicable utility provider and the utility provider will inspect and accept such portions of the Public Infrastructure. The issuance of a building permit does not waive any requirements related to Project Improvements.



3.1.4. Maintenance of Trails. The Final Plan identifies and trails for the Project. In the event Owner fails to maintain the trails in a manner consistent with comparable public areas maintained by the County, then the County may (but is not obligated to) maintain the trails after written notice to Owner except in emergency situations. The market value of the cost of any maintenance performed by the County pursuant to this Agreement shall be paid to the County within thirty (30) days after written demand to Owner and the County will have such rights to collect the same as are provided for under Section 16.27.23(B)(4) of the County Code.

3.1.5. Storm Water Management. The Final Plan will incorporate appropriate facilities to manage on-site storm water consistent with the County Code. Such facilities must be completed and operational prior to any certificates of occupancy for buildings in the Project being issued. The storm water facilities shall be maintained in accordance with manufacturer recommendations, or according the County Code for detention basins, as applicable. A system maintenance plan, based on manufacturer recommendations for the initial underground storm water detention facilities, are attached hereto as **Exhibit E**. Notwithstanding the foregoing, Owner may update and replace the storm water infrastructure in accordance with the Applicable Law, and shall provide updated maintenance recommendations upon request of the County. If maintenance of storm water facilities is not completed as required, the County may, but is not obligated to maintain the on-site storm water facilities, after written notice to Owner except in emergency situations. The market value of the cost of any maintenance performed by the County pursuant to this Agreement shall be paid to the County within thirty (30) days after written demand to Owner and the County will have such rights to collect the same as are provided for under Section 16.27.23(B)(4) of the County Code.

3.1.6. Bonding.

3.1.6.1. Performance Bonds and Warranty Bonds. Prior to any subdivision plat for the Project being recorded, or the issuance of any building permits in the Project, any Project Improvements which are to be dedicated to the public shall be completed, or bonded for with the appropriate governmental entity. Approval of any plat will be contingent on a performance bond being issued for 100% of the uncompleted portion of the public Project Improvements that must be completed in connection with development of the area shown on such plat, unless such portion of the Project Improvements are actually constructed and approved prior to the recording of the plat. The procedure for posting of any performance bond shall be in accordance with Section 16.27.21 of the County Code. Owner shall also post with the appropriate governmental entity a warranty bond for ten percent (10%) of the cost of completion of any Project Improvements which will be dedicated to the public. Included with the bond shall be an itemized engineer's cost estimate of all onsite and offsite improvements, trails, landscaping and any other amenities that are required as part of the Final Plan. Any bonds for the improvements to Center Street which are required by the City must be timely placed with the City according to its policies and procedures. The Center Street improvements will be inspected and approved by the City. The County Manager may require for the Center Street improvements either be completed or bonded

for with the City as a condition of recording a plat for the Project or for issuing development permits.

3.1.6.2. No Third Party Rights. All bonds, including but not limited to performance, warranty bonds, and related agreements are between the County, Owner (or contractor if applicable), and financial institution. No other person or entity shall be deemed a third-party beneficiary or have any rights under this subsection or any bond or agreement entered into pertaining to bonds. Any other person or entity, including but not limited to owners of individual units or lots, shall have no right to bring any action under any bond or agreement as a third-party beneficiary or otherwise.

3.1.7. Private Drives.

3.1.7.1. Road Maintenance. There will be no roads on the interior of the Project, and all entranceways, pathways, driveways and parking areas on the interior of the Project will be private roads, unless the County and the Owner agree otherwise in writing. Center Street and the stub of Pimlico Drive will remain public roads. Private driveways and parking areas shall be constructed in accordance with County standards. The Owner shall maintain the driveways and the parking areas, providing the same level of service provided to other similar facilities in the County.

3.1.7.2. Snow Removal and Fire Access. Owner shall provide snow removal on all private driveways and parking areas in the Project. In addition to private roads Owner shall provide access to the Temple for fire apparatus in locations shown on **Exhibit G** attached hereto. Owner shall keep any ground cover or foliage in the fire access areas six inches (6") or less in height. Owner will not stockpile snow higher than six inches (6") in the fire access area shown on **Exhibit G**.

3.1.8. Owner Liabilities. The obligations of Owner shall automatically be assigned and assumed by subsequent purchasers of the Project, but the Owner shall not be released from the Project Improvement obligations as a result of the assignment and the assumption by subsequent purchasers. In the event that the Property is conveyed in part, the fee owner of that portion of the Property assumes the obligations of this Agreement applicable to such portion.

3.2. Obligations of the County.

3.2.1. Generally. The Parties acknowledge and agree that Owner's agreement to perform and abide by the covenants and obligations of Owner set forth herein is material consideration for the County's agreement to perform and abide by the covenants and obligations of the County set forth herein.

3.2.2. Limit on Conditions to Current Approvals. The County shall not impose any further Conditions to Current Approvals other than those detailed in this Agreement, unless agreed to in writing by the Parties.

3.2.3. Acceptance of Project Improvements. The County agrees, subject to the terms of this Agreement, to accept those Project Improvements to be dedicated to the County, in accordance with the County Code.

3.2.4. Additional Obligations of the County.

3.2.4.1. Road Maintenance and Snow Removal. Center Street and the stub of Pimlico Drive adjacent to the Project shall be public roads. The County will maintain and provide snow removal for the stub of Pimlico Drive, providing the same level of service provided to other Class B Roads in the County. The parties expect that the City will maintain and provide snow removal for the portion of Center Street which is adjacent to the Project as set forth in the MOU described below.

**SECTION 4. OWNER VESTED RIGHTS AND APPLICABLE LAW.**

4.1. Owner Rights. The Owner has the right to develop the Project in accordance with this Agreement including, without limitation, the rights set forth in this Section 4 (and its subparts) and the rights set forth in Section 8 of this Agreement, below.

4.1.1. Generally. As of the Effective Date of this Agreement, Owner has the vested right to proceed with the development of the Property and the Project in accordance with the approvals granted in this Agreement, the Final Plan, and the Current Approvals, for the term of the Agreement.

4.1.2. Permitted Use. Pursuant to RLUIPA and URLUA, the County finds that permitting the use of the Property for the Temple and the Project—subject to the terms, limitations, conditions, and obligations of this Agreement—is the least restrictive means of furthering the County’s compelling governmental interest in imposing a cohesive, County-wide zoning framework. Thus, notwithstanding any contrary provision of Section 16.08.02, Section 16.08.03, or Section 16.21.11 of the County Code, the County finds that Project, including the Temple, is a permitted and approved use for the Property, subject to the terms, limitations, conditions, and obligations of this Agreement. Without limitation, to the extent that Section 16.08.03 or Section 16.21.11 of the County Code would otherwise require the Owner to obtain a conditional use permit with respect to the Project, both for the ‘religious activities’ use and the greater height for a church, the Planning Commission and the County Council—in approving this Agreement—have found that appropriate standards for approval have been satisfied in the case of the Project. Specifically, and in addition to other findings set forth herein, the Owner has asserted, and the County accepts the following findings with respect to issues raised in Section 16.23.07 of the County Code, not by way of granting a conditional use permit for the Project, but by way of addressing how the standards of Section 16.23.07 of the County Code could be met, especially when interpreted in light of RLUIPA or URLUA.

4.1.2.1. Compliance with Land Use Code. The Project complies with all the requirements of Title 16 of the County Code, as modified by the Temple Project Ordinance and this Agreement.

4.1.2.2. Licensing. Owner will hold and maintain any business licenses required in connection with the operation of the Project.

4.1.2.3. Compatibility of Use. The Project primarily adjoins residential uses. The religious nature of the use of the Project is compatible with, and does not adversely affect, the surrounding uses. The Project is consistent with such residential uses in terms of the Project's use, location, scale, mass, design, and circulation—subject to the limitations set forth in Section 8 of this Agreement and its subpart. As described in Section 8.2, the Temple building is set back from the boundary lines of the Property and is situated in an appropriate location on the Property. The size and massing of the Temple in relationship to the overall size of the Property creates an appropriate scale. The Property is about 18 acres, whereas the RA-1 zone allows for development on one acre lots. Owner has designed the Temple in a manner which contains necessary size, design features, and massing given religious purposes of the Temple. The design of the Temple is harmonious with other historical buildings within the County and does not detract from surrounding residential buildings adjacent to the Property. The Project has two (2) ingress-egress access points to Center Street and the internal traffic circulation pattern has been approved by the Wasatch County Fire District.

4.1.2.4. Mitigating Visual and Safety. The visual impacts of the Temple building are adequately mitigated by the building's setback from the Property's boundary lines and the other terms, limitations, conditions, and obligations of this Agreement adequately mitigate any safety concerns.

4.1.2.5. General Plan. The use of the Property as a Temple is consistent with the General Plan, including for the reasons set forth in the Recitals of this Agreement.

4.1.2.6. Expansion. The Project is not expandable in scale or use.

4.1.2.7. Lighting, Parking, and Location. Issues relating to the lighting for the Project will be pursuant to the Exterior Lighting Ordinance, as provided in Section 8.5 of this Agreement. The Exterior Lighting Ordinance has been challenged in State Court. However, regardless of whether the Exterior Lighting Ordinance is overturned as a result of that process, the parties agree that the lighting for the Project will be governed by the terms, conditions, and obligations of the Exterior Lighting Ordinance as approved in the Lighting Plan and to be verified in the field during construction of the Temple. The character of the use and the surrounding developments are sufficiently harmonious with the Project as set forth in Section 4.1.2.3, above. The City has indicated that Center Street—which is a collector street adjacent to the Project—has sufficient capacity to handle the anticipated traffic for the Project, with the addition of the proposed round-about which the



Parties expect will be constructed pursuant to the MOU. The New Collector Street, described in Section 8.8.2, below, will further provide capacity for the anticipated traffic. Other relevant issues relating to parking, drainage, erosion, soil stability, wildlife impacts, dust, odor, noise and vibrations, etc., are adequately mitigated through the terms, limitations, conditions, setbacks, site plan provisions, and obligations set forth in this Agreement.

4.1.2.8. Financial Burden. The Project will not create an unreasonable financial burden on the County or on surrounding properties because Owner will be responsible to fund the development of any and all onsite infrastructure and the required off-site improvements identified in this Agreement or under Applicable Law. In addition, Owner and the County expect to enter the MOU with the City describing the Parties' obligations with respect to the maintenance of the relevant portion of Center Street.

4.1.2.9. Health, Safety, and Welfare. The religious nature of the Temple provides a direct social benefit for some County residents who are adherents of the Church of Jesus Christ of Latter-day Saints. Further, as set forth in the Recitals of this Agreement, the use anticipated by the Project is not adverse to the health, safety, or welfare of the residents of, and visitors to, the County.

4.1.2.10. Development Applications. As set forth in Section 4.2, below, Owner will obtain appropriate permits and approvals required in connection with further Development. As set forth in Section 4.4.1, below, such approvals will confirm with the IBC.

4.1.3. Specific Development Rights and Obligations. Without in any way limiting the foregoing, Owner has the vested right to develop the Project in accordance with the Final Plan and pursuant to the terms, conditions, obligations, and restrictions set forth in this Agreement, including this Section 4, and its subparts, and Section 8, and its subparts.

4.2. Processing Development Applications. The County shall approve Development Applications if they comply with Applicable Law and conform to this Agreement.

4.2.1. Timing. The County agrees to respond to Development Applications in a timely manner, consistent with the requirements of Applicable Law. Owner reserves all rights and remedies with respect to the County's failure to timely review and respond to a Development Application.

4.2.2. Final Action. The County will approve a Development Application so long as the Development Application is complete and complies with Applicable Law, including this Agreement. Owner may appeal any Denial of a Development Application as provided in the County Code and LUDMA.

4.3. Reserved Legislative Powers. Nothing in this Agreement shall limit the future exercise of the police power by the County in enacting zoning, subdivision, development,

transportation, environmental, open space, and related land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of the County to enact such legislation under its police power, such legislation shall not modify Owner's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah, 1988), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

#### 4.4. Laws Applicable to the Parties' Performance.

4.4.1. Applicable Law. Unless otherwise set forth in this Agreement, the rules, regulations, official policies, standards and specifications applicable to the development of the Property ("**Applicable Law**"), shall be the County's rules, regulations, official policies, standards and specifications, including the County Code, and other applicable state law, and federal law in effect as of the Acceptance Date. For the avoidance of doubt, the County agrees that Applicable Law includes the 2021 version of the International Building Code ("**IBC**"). However, notwithstanding the foregoing, any person submitting a Development Application shall be subject to updates to the building, electrical, mechanical, plumbing, and fire codes, and other technical specifications of the County Code, including the IBC, relating to the placement and construction of the proposed structure referenced in the Development Application, which are in effect at the time the person files with the County a completed Development Application. Nevertheless, on and after the Effective Date, Owner and County may agree, in each's sole discretion, to have a Development Application reviewed under any or all laws and standards in effect at the time the Development Application is submitted rather than under Applicable Law.

4.4.2. Effect of Conflict. Except as provided herein, development of the Project will be consistent with the County Code and other provisions of Applicable Law. In the event of a conflict between Applicable Law and this Agreement, including its Exhibits, then the provisions of the Agreement and its Exhibits shall control to the fullest extent possible. Specifically, certain provisions of this Agreement and its Exhibits may supersede and replace provisions of the County Code, but only with respect to the Project. Pursuant to the Act (Utah Code § 17-27a-528), this Agreement and its Exhibits have been approved by the County's legislative body in accordance with the same procedures, including notice provisions, used for enacting a land use regulation under Utah Code § 17-27a-502, including a review and recommendation from the Planning Commission, and a public hearing.

4.4.3. State and Federal Law. Notwithstanding any other provision of this Agreement, this Agreement shall not preclude the application of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations ("**Changes in the Law**") applicable to the Property, provided such Changes in the Law are generally applicable to other similarly situated properties. In the event the Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement shall be modified or suspended, or performance

thereof delayed, as may be necessary, but only to the extent necessary to comply with the Changes in the Law.

## SECTION 5. AMENDMENT

5.1. Administrative Amendments. It is the County's practice, in connection with the prosecution and enforcement of any land use decision, to administratively approve minor, inconsequential modifications, as determined in the discretion of the County. That process and the applicable standards are discussed in Section 16.27.10(D) of the County Code in the context of changes from preliminary approvals to final applications, but the concept is applied in the prosecution and enforcement of final approvals as well. In accordance with the County's standard practice regarding land use decisions, Owner may, from time to time, propose amendments to the Agreement which, if proposed by Owner, may be considered and approved by County officials as outlined below, but only if such amendment represents a minor, inconsequential change to the Agreement, and if such amendment is otherwise in compliance with Applicable Law. Nevertheless, Owner or the County official, may refer any amendment initially proposed by the Owner to be considered by the County Council for approval under Section 5.2 of this Agreement.

5.1.1. Infrastructure. Minor, inconsequential changes of the location or sizing of the Project Infrastructure that does not materially change the functionality of the Project may be approved administratively by the County Engineering Coordinator or designee.

5.1.2. Design Guidelines. During buildout of the Project, Owner may propose, and the Director may administratively approve, minor, inconsequential changes to the guidelines and standards for design of the Project ("**Design Guidelines**") attached hereto as **Exhibit D**, including to respond to availability of materials or to respond to community input.

5.1.3. Technical Edits. Minor technical edits or corrections to this Agreement and its Exhibits, including to the Final Plan, which are necessary to clarify or modify such documents consistent with their intended purpose, may be approved by the head of the County department or agency which would have primary review responsibility for the issue in the County's DRC review process.

5.1.4. Legal Description. Modifications to the legal description of the Property, including, without limitation, modifications to respond to any survey or resurvey of the Property, may be approved by the County Surveyor.

5.2. Amendments Generally. Unless otherwise stated in Section 5.1, above, the Parties may amend this Agreement by mutual written consent as approved by the County Council, and following any processes or hearings required under Applicable Law. No amendment or modification to this Agreement shall require the consent or approval of any person or entity having any interest in any specific lot, unit or other portion of the Project.

## SECTION 6. DEFAULT

6.1. General Provisions.

6.1.1. Defaults Generally. In the event any Party fails to perform any duty or obligation under this Agreement, the other Party shall give written notice (“**Notice of Default**”) as provided herein. The Notice of Default shall specify the nature of the alleged failure, provide documentation or evidence substantiating the alleged failure, and, where appropriate, shall state the manner in which said failure satisfactorily may be cured.

6.1.2. Cure Period. Any failure identified in a Notice of Default which continues uncured for a period of more than thirty (30) days following such Party’s receipt of the Notice of Default may be deemed a default hereunder, unless a different period is provided in this Agreement or such period is extended by written mutual consent, or as provided herein shall constitute a default under this Agreement. If the nature of the failure alleged in the Notice of Default is such that it cannot reasonably be cured within such period of thirty (30) days, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within the permissible period. Upon the occurrence of an uncured default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured prior to termination, then no default shall exist and the Party giving the Notice of Default shall take no further action. Except as otherwise provided in this Agreement, LUDMA or the County Code shall govern the appeal of any approval, denial, or failure to approve a land use application by the County.

6.2. Review of Agreement by County.

6.2.1. Generally. The County may from time to time, request that Owner demonstrate that Owner is in full compliance with any specific provision, term, or condition of this Agreement by providing written notice identifying the provision, term, or condition about which the County is inquiring. Owner shall provide any and all information reasonably necessary to demonstrate compliance with this Agreement as requested by the County within sixty (60) days of the request, or at a later date as agreed between the Parties.

6.2.2. Determination of Non-Compliance. If the County finds and determines that Owner has not complied with the terms of this Agreement, and noncompliance may amount to a default if not cured, then the County may deliver a Notice of Default pursuant to Section 6.1.1 of this Agreement. If the noncompliance is not timely cured by Owner, the County may terminate this Agreement.

6.3. Default by the County. In the event the County defaults under the terms of this Agreement, Owner shall have all rights and remedies provided in this Agreement and provided under Applicable Law.



6.4. Extension of Time for Performance. Notwithstanding anything to the contrary contained herein, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of any of the following (each an “**Event of Force Majeure**”): war, insurrection, terrorist acts, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, pandemics or epidemics, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environmental regulations, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Changes in the market, or the financial standing of the Parties shall not serve as a basis for excused performance. Upon the request of either Party hereto, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

## **SECTION 7. DEFENSE AND INDEMNITY.**

7.1. Owner’s Actions. Owner shall defend, hold harmless, and indemnify the County and its elected and appointed officers, agents, employees, and representatives from any and all claims, costs, judgments and liabilities (including inverse condemnation and attorney fees) for bodily injury or property damage which are asserted against the County and which arise directly or indirectly from the construction of the Project, or operations performed under this Agreement by: (a) Owner or by Owner’s contractors, subcontractors, agents or employees, or (b) any one or more persons directly or indirectly employed by, or acting as agent for, Owner or any of Owner’s contractors or subcontractors. Owner will have no obligation to indemnify for the actions of third-parties not identified in the preceding sentence. The Owner further releases any claims which Owner has or may have against the County and its elected and appointed officers, agents, employees, and representatives, arising directly out of the approval of this Agreement, except for willful misconduct or fraudulent acts by the County. Nothing in this section shall abrogate any defenses or immunities under the Utah Governmental Immunity Act.

7.2. Hazardous, Toxic, and/or Contaminating Materials. Owner further agrees to defend and hold harmless the County and its elected and/or appointed boards, officers, employees, and agents from any and all claims, liabilities, damages, costs, fines, penalties and/or charges of any kind whatsoever relating to the existence of hazardous, toxic and/or contaminating materials on the Project, but only to the extent the same are caused by or relate to the intentional or negligent acts of Owner, or Owner’s officers, contractors, subcontractors, employees, or agents.

7.3. Limitation on Indemnity. Nothing in this Agreement shall be construed to mean that Owner shall defend, indemnify, or hold the County or its elected and appointed representatives, officers, agents and employees harmless from any claims of personal injury, death or property damage or other liabilities arising from: (a) the willful misconduct or negligent acts or omissions of the County, or its boards, officers, agents, or employees; or (b) the negligent maintenance or repair by the County of any County facilities or improvements, including improvements that have been offered for dedication and accepted by the County for maintenance.

## **SECTION 8. SPECIFIC DEVELOPMENT RIGHTS AND OBLIGATIONS.**

8.1. Design Guidelines. Owner may develop the Temple and other structures within the Project generally according to exterior design standards and criteria set forth in the Design Guidelines attached hereto as **Exhibit D.**

8.2. Building Height. Notwithstanding any contrary provision of the County Code, the Temple may exceed the otherwise applicable height allowed in the Zone, subject to the limitations of this Section and its subparts. The County agrees that a distinction from the more typical height requirement in the Zone is appropriate for a number of reasons. As noted in Recital D, the Temple qualifies as a “Church or Temple” within the meaning of Section 16.04.02 of the County Code. Pursuant to Section 16.21.11 of the County Code, churches are entitled to additional height in the context of a conditional use permit. Although such a permit is not necessary here, in light of the approvals granted pursuant to this Agreement, as set forth in Section 4.1.2, above, the Owner asserts, and the County accepts that all the requirements for granting a conditional use are present in the case of the Project. Thus, additional height provided for below is justified. The County also finds that the Recitals of this Agreement also identify the justification for the height of the Temple. Moreover, in certain zones abutting residential zones, as setbacks increase, additional height is permitted. *See* Section 16.21.19(A) of the County Code, providing for two feet (2’) of building height over twenty feet (20’) for each additional one foot (1’) of setback beyond what is required. Although the Temple is not in a business, commercial, or industrial zone, the setbacks from Property’s boundary lines, as shown on the Final Plan, confirm that the maximum height provided for below is appropriate for the Property and is hereby approved.

8.2.1. Maximum Height of Main Structure. The main structure of the Temple, to the top of the screen parapet, shall not exceed a maximum height of one hundred feet (100’) above natural grade.

8.2.2. Towers. Consistent with the County Code, the spires, steeples, or towers on the Temple are not subject to the height limitation set forth in this Section and may be higher. Buildings other than the Temple situated within the Project will be limited to the otherwise applicable height allowed under the County Code. Without limiting the foregoing, the parties anticipate that the east tower may extend approximately one hundred forty-one feet (141’) above existing grade and the west tower may extend approximately two hundred ten feet (210’) above natural grade.

8.3. Massing. Notwithstanding any contrary provision of the County Code, the Temple shall be permitted to have a size and massing characteristics consistent with the terms and provisions of the Design Guidelines.

8.4. Parking. As set forth in the Final Plan, the Project has the number and character of parking stalls consistent with the County Code or the approved parking study.

8.5. Exterior Lighting and Hours of Operation. All exterior lighting within the Project, including lighting of the Temple itself, will be installed, maintained, and operated pursuant to the

terms, conditions, and restrictions of the Exterior Lighting Ordinance. Owner agrees to comply with the Exterior Lighting Ordinance, even if the Exterior Lighting Ordinance is overturned by a court of competent jurisdiction. There is some level of discretion in how to apply the standards of the Exterior Lighting Ordinance to the Project. Although the County has determined that the lighting plan for the Project included as a component of the Final Plan (“**Lighting Plan**”) is substantially compliant with the Exterior Lighting Ordinance, and the County Code, including sections 16.21.19, 16.21.16, 16.26, 16.33.10, the County Council hereby legislatively approves the Lighting Plan for the Project. The parties note that if the Exterior Lighting Ordinance were to be struck down by a court of competent jurisdiction, then without this Agreement, the Project would be vested under the prior version of the County Code, which allows any amount of light on a site or building without limits as long as it is directed down. The Exterior Lighting Ordinance, and the Lighting Plan, limits the quantity of light, and helps protect the night sky by using newer technologies that help limit light pollution. The Lighting Plan helps preserve the views of the night sky and reduce the health impacts of artificial light more than the lighting restrictions in the version of the County Code which existed prior to the enactment of the Exterior Lighting Ordinance. The Lighting Plan balances the health, safety, welfare interests of adequate lighting required under the IBC, FAA, and recommendations of the Illuminating Engineering Society (“**IES**”) with the welfare interests in reducing light pollution. The Owner shall comply with the Lighting Plan and associated lighting levels in perpetuity, unless a new application for a lighting plan is approved as provided for herein. Any subsequent applications for changes to the exterior lighting of the Project shall be evaluated pursuant to the Exterior Lighting Ordinance, even if the ordinance is overturned by a court of competent jurisdiction. For purposes of the Exterior Lighting Ordinance, Owner states that current normal business hours begin at six o’clock (6:00) A.M. and close at ten o’clock (10:00) P.M. Those shall be deemed the normal business hours and hours of usual operations for lighting purposes year-round, even on days when the Temple may not be open. Notwithstanding the foregoing, nothing in this Agreement or the Exterior Lighting Ordinance will prevent Owner from installing motion-activated sidewalk and parking lot lighting, in accordance with the Lighting Plan, for safety purposes in connection with all after-hours access to the Temple or Property, including for maintenance purposes; provided, however, that such motion-activated safety lighting will not allow Owner to illuminate the exterior of the Temple outside of hours otherwise allowed under the Exterior Lighting Ordinance. Nevertheless, and notwithstanding any provision of the Exterior Lighting Ordinance, nothing in this Agreement will be deemed to restrict Owner’s ability to install the lowest amount of lighting as required by the regulations or rules administered by the Federal Aviation Administration (“**FAA**”) based on the Temple’s proximity to the Heber Valley Airport. Owner shall comply with FAA regulations with respect to exterior lighting for the Temple and other components of the Project. Owner has worked with the FAA to identify “the lowest amount of lighting” as identified in the FAA regulations. Owner has made a reasonable effort to apply for the lowest amount of lighting required for the Project, including options having the lowest Candela allowed. The FAA has indicated to Owner that Owner may comply with the applicable FAA regulations with either nighttime lighting of the upper portion of the western spire of the Temple, or with a solid red light at or near the top of the western spire, which would not require otherwise applicable lighting of the western spire.

8.6. Cooperative Agreement Regarding Center Street. The Parties anticipate that on or after the Effective Date, Owner, the County, and the City (or, alternatively, the Owner and the City), will enter into a Memorandum of Understanding (“**MOU**”) identifying and outlining the respective responsibilities of Owner, the County, and the City with respect to the maintenance of the portion of Center Street fronting the Property. Notwithstanding the foregoing, the MOU will not modify or limit any approvals, entitlements or obligations arising under this Agreement.

8.7. Ridgeline / Viewshed Analysis. The County does not maintain that the Ridgeline / Viewshed provisions of the County Code apply to the Project because the development is not located on or about a ridgeline. The County has never applied the Ridgeline / Viewshed provisions to development on the valley floor. Regardless, the County finds that the provisions of this Agreement adequately address any visual impact created by the Temple and that no additional conditions are required with respect to the Project under Section 16.27.22 of the County Code. The Project meets the requirements of Section 16.27.22, and the Temple is not limited in height, or location on the Property due to Section 16.27.22.

8.8. Flood Zone and Southern Property Boundary. The western portion of the Property is located within “Zone AE” (“**Flood Zone Parcel**”) as shown on the Flood Insurance Rate Map, with an Effective Date of March 15, 2012 (Panel 0119E). The following provisions will apply to the development of the Flood Zone Parcel and the southern boundary line of the Property.

8.8.1. Flood Zone Development. Owner will not install or maintain any impervious surfaces on the Flood Zone (except as necessary to complete the Trail). However, the foregoing will not preclude Owner from using or modifying the Flood Zone Parcel for landscaping, stormwater detention, or other purposes which do not require permanent impervious surfaces (except as necessary to complete the Trail) so long as modifications do not affect the grade of the Flood Zone Parcel, inhibit flows, redirect flows in a manner that will harm others and are in compliance with FEMA regulations. Owner may be permitted to install on the Flood Zone irrigation and stormwater lines, channels, drains, and other equipment consistent with the foregoing purposes. The Flood Zone Parcel may also include portions of the Trail, identified below. Nothing in this Section 8.8 exempts the Project from Section 16.28.08 of the County Code or any applicable FEMA regulations.

8.8.2. Access via Southern Property Boundary. In connection with the prior development of the Triple Crown Subdivision (“**Subdivision**”), a stub of Pimlico Drive (“**Stub Road**”) was installed to the north of the intersection of Pimlico Drive with Preakness Lane. The Stub Road was constructed in anticipation that the Property might be used as residential purposes and, thereby, provide connectivity between the Property and the Subdivision. However, in light of Owner’s determination to use the Property for the Temple and not for a future residential subdivision, the County finds that it is appropriate for the Stub Road to not be extended through the Property. This finding is based on, among other things, the provisions of the following sections. Additionally, because Pimlico Drive will not be connected through to Center Street, and in lieu of the road, sidewalk and culvert improvements that Owner would otherwise install, Owner will be required to improve the dead end of Stub Road—but only to the extent such



improvements are or will be located on the Property or in a public right of way, but will not require a turnaround or hammer head. Rather, Owner will extend existing improvements on or adjacent to the Stub Road such that they will continue for a total of approximately one hundred fifty (150) feet from intersection with Preakness Lane, as shown on the Final Plan. The improvements to the Stub Road may include extension of existing sidewalk, curb, drainage, and non-irrigated landscaping in accordance with the Final Plan.

8.8.3. New Collector. The City is constructing a collector street to the east of the Humbug Canal running north from Center Street (“**New Collector Street**”). The New Collector Street will intersect Center Street at the location of the Project’s west entrance onto Center Street. If the Stub Road were extended through the Project to the Project’s west entrance, Pimlico Drive would become an extension of the New Collector Road, which the County Council finds to be contrary to the health and safety of the residents of the Subdivision. The County Council finds that Mill Road should act as the collector road for the Subdivision and other developments directly south of the Property, and connecting the Stub Road would undermine that intent. The County Council also finds that extending the Stub Road through the Project would create a safety hazard for users of the Project, including pedestrian travel through the parking areas of the Project.

8.8.4. Traffic Impact and City Involvement. Notwithstanding any contrary provision of Sections 16.27.28, 16.27.29, 16.27.30, 16.27.31, 16.08.14 of the County Code, or any other provision of the County Code, Owner will not be required to extend the Stub Road or Pimlico Drive through the Project or otherwise provide vehicular access to the Project from Pimlico Drive or from the south side of Lake Creek. The only significant traffic impact of the Project as designed will be on Center Street, which is in the City adjacent to the Property. Therefore, the City will be responsible for evaluating and approving the connections and improvements to the Center Street right of way. Any requirements of the County Code regarding street layouts, the local street plan, traffic control plans, pedestrian access or traffic studies, as they pertain to Center Street, including, without limitation, Sections 14.02, 16.02.12, 16.27.25, as they pertain to Center Street, are hereby determined to not be applicable to the Project.

8.9. Regional Trail. Owner shall install a perimeter walking trail (“**Trail**”) on portions of the exterior boundaries of the Property as shown on the Final Plan. The Trail shall be designated as a public easement. Notwithstanding the foregoing, the easement for the Trail will be subject to the following restriction: the Trail shall be used only for non-motorized, pedestrian, recreational use and for no other purpose. The hours the Trail may be used by the public will not be limited, except as may be reasonably necessary to address temporary hazards, to perform construction or maintenance, or by a County ordinance regulating trails throughout the County. The Trail shall be connected to, and form part of, a larger regional trail intended for the use and benefit of the community as a whole. Owner shall be required to maintain the Trail on Owner’s property or as agreed to by the County to standards which the County employs for similarly situated county facilities. Nevertheless, nothing in this Agreement shall limit the protections available to Owner under Utah Code § 57-14-101, *et seq.* The Owner will be required to provide complete connections with an improved regional trail system, as shown on the Final Plan. The requirements of this

Agreement will control over any contrary provision of Section 16.08.14, 16.21.18 or 16.38 of the County Code. The County acknowledges that the Trail is intended to be used by the public for a recreational purpose as defined in Utah Code § 57-14-102, and that Owner is entitled to the protections of Utah Code § 57-14-101, *et seq.* Further, the use of the Trail will also be deemed a recreational activity under Utah Code § 78B-4-509, and the County will be entitled to the protections of that section. The easement for Trail will be held by County for the use and benefit of the public, and the parties intend to retain for themselves, with respect to the public use of the Trail, all protections afforded under the Utah Governmental Immunity Act.

8.10. Maintenance Obligations Transfer. Portions of the County Code, including Section 16.27.23, contemplate the maintenance obligations for Open Space, trails, recreational facilities, and certain landscaping being transferred to a homeowners association or similar entity, with the County's approval. Thus, Owner will remain responsible for any of the foregoing which are applicable to the Project. The County therefore finds the Project is not subject to provisions for transferring maintenance obligations, and a written transfer agreement. However off-site improvements, as in the case of the required improvements on Pimlico Drive, may be transferred to a homeowners association.

8.11. Signs. The signs and monumentation for the Project, as included in **Exhibit F**, are approved, notwithstanding any contrary provisions of the County Code, including, without limitation Chapter 16.26 and its subparts. The Project will likely attract persons from outside the County—indeed, from outside the State of Utah—including both adherents and non-adherents of the Church of Jesus Christ of Latter-day Saints, to visit the County. Visitors are likely to come for many reasons, including, to tour the Temple before it commences operations (which tours are open to the general public), to participate directly in ceremonies and ordinances held in the Temple, and to support or celebrate with persons who are participating in such ceremonies and ordinances. The County finds that the signs and monumentation for the Project will promote the safety and welfare of people visiting the Temple because it will facilitate them, finding the Temple, and understand the proper way to access the Temple. In addition to the signs identified on **Exhibit F**, the Temple may also feature the exterior inscriptions “House of the Lord” and “Holiness to the Lord,” which have specific religious significance, in accordance with Owner's practice for other temples. Throughout the Project, Owner may install signs to guide vehicular and pedestrian traffic, including signs permitted by the Manual on Uniform Traffic Control Device.

8.12. Land Use Authority. The County Council will serve as the land use authority for the Applications for the Project. The Applications will be heard by the planning commission, who will hold a public hearing on these items in association with this Agreement, and an associated ordinance, and as required by Utah Code § 17-27a-502. The Wasatch County Council will hold a public hearing on the Applications, this Agreement, and the Temple Project Ordinance in conjunction with this Agreement. The Council may approve the proposed Applications, and the Temple Project Ordinance, or they may modify, deny, or continue the matter. Subsequent land use approvals related to the Project will proceed in accordance Applicable Law and this Agreement.

## **SECTION 9. INSURANCE MATTERS.**

9.1. Insurance Required. Owner shall maintain reasonable policies of commercial general liability insurance with respect to any portion of the Project Improvements which will be dedicated to the public.

9.2. Insurance Certificates. Prior to beginning construction on the Project, Owner shall furnish to the County certificates of general liability insurance indicating that the County has been added as a certificate holder with respect to construction of any public portion of the Project Improvements for the Project. Until such time as any public portion of the Project Improvements are completed and approved by the County, such insurance coverage shall not terminate or be canceled or the coverage reduced until after at least thirty (30) days' written notice is given to the County.

## **SECTION 10. NO AGENCY, JOINT VENTURE, OR PARTNERSHIP.**

10.1. Parties' Understanding. It is specifically understood and agreed to by and between the Parties that: (a) Project is a private development; (b) the County has no interest or responsibilities for, or due to, third-parties concerning any improvements until such time, and only until such time, that the County accepts the same pursuant to the provisions of this Agreement; (c) Owner shall have full power over and exclusive control of the Property and Project herein described, subject only to the limitations and obligations of Owner under this Agreement; and (d) the County and Owner hereby renounce the existence of any form of agency relationship, joint venture or partnership express or implied between the County and Owner and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the County and Owner.

## **SECTION 11. MISCELLANEOUS.**

11.1. Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

11.2. Subjection and Subordination. Each person or entity that holds any beneficial, equitable, or other interest or encumbrances in all or any portion of Project at any time hereby automatically, and without the need for any further documentation or consent, subjects and subordinates such interests and encumbrances to this Agreement and all amendments hereof. Each such person or entity agrees to provide written evidence of that subjection and subordination within fifteen (15) days following a written request for the same from, and in a form reasonably satisfactory to the County.

11.3. Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this

Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties.

11.4. Other Necessary Acts. Each Party shall execute and deliver to the other any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement.

11.5. Construction. This Agreement has been reviewed and revised by legal counsel for both the County and Owner, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

11.6. Covenants Running with the Land. The provisions of this Agreement shall constitute real covenants, contract and property rights, and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns, and transferees.

11.7. Waiver. No action taken by any Party shall be deemed to constitute a waiver of compliance by such Party with respect to any representation, warranty, or condition contained in this Agreement. Any waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver by such Party of any subsequent breach.

11.8. Remedies. Either Party may, in addition to any other rights or remedies, institute an equitable action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto, or to obtain any remedies consistent with the foregoing and the purpose of this Agreement.

11.9. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah. Any dispute regarding the Agreement may be resolved in a court of competent jurisdiction in the State of Utah.

11.10. Covenant of Good Faith and Fair Dealing. Each Party shall use its best efforts and take and employ all necessary actions in good faith consistent with this Agreement and Applicable Law to ensure that the rights secured by the other Party through this Agreement can be enjoyed.

11.11. Requests to Modify Use Restrictions. Owner's successors, heirs, assigns, and transferees shall have the right, without the consent or approval of any other person or entity owning property in any other part of the Project, to request that the County modify any zoning classification, use, density, design, setback, size, height, open space, road design, road dedication, traffic configuration, site plan, or other use restrictions associated with that portion of the Project to which the successor, heir, assign, or transferee holds title. This Section grants no additional rights besides those granted under Applicable Law.



11.12. Representations. Each Party hereby represents and warrants to each other Party that the following statements are true, complete and not misleading as regards the representing warranting Party: (a) such Party is duly organized, validly existing and in good standing under the laws of the state of its organization; (b) such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder; (c) the individual(s) executing this Agreement on behalf of such Party do so with the full authority of the Party that those individual(s) represent; and (d) this Agreement constitutes the legal, valid and binding obligation of such Party enforceable in accordance with its terms, subject to the rules of bankruptcy, moratorium and equitable principles.

11.13. No Third-Party Beneficiaries. This Agreement is between the County and Owner. No other person or entity shall be deemed a third-party beneficiary or have any rights under this Agreement.

## **SECTION 12. NOTICES.**

12.1. Manner of Giving Notice. Any notice or communication required hereunder between the County and Owner must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of: (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to the County:

WASATCH COUNTY MANAGER  
Attn: Dustin Grabau  
25 N Main Street  
Heber City, Utah 84032

PLANNING AND ZONING  
DEPARTMENT

Attn: Doug Smith, Director  
35 South 500 East  
Heber City, Utah 84032

With Copies to:  
WASATCH COUNTY ATTORNEY

If to Owner:

CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS  
Attn: David A. Channer, Assoc. General  
Counsel

50 E. North Temple Street, Room 288W  
Salt Lake City, Utah 84150-0302

With Copies to:  
KIRTON | McCONKIE  
Attn: Loyal C. Hulme and Daniel C.  
Dansie  
50 E. South Temple, Suite 400  
Salt Lake City, Utah 84111

Attn: Scott Sweat and Jon Woodard  
805 West 100 South  
Heber City, UT 84032

### **SECTION 13. CONCLUDING PROVISIONS.**

13.1. Integration Clause. Unless otherwise noted herein, this Agreement is the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of the County and Owner. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

Exhibit A - Legal Description of the Property

Exhibit B – Final Plan

Exhibit C – Conditions of Approval

Exhibit D – Design Guidelines

Exhibit E – Stormwater Infrastructure Maintenance Recommendations

Exhibit F – Approved Signs

Exhibit G – Fire Access

13.2. Recording. Following the Effective Date, the County Clerk shall cause to be recorded, at Owner's expense, an executed copy of this Agreement in the real property records of the office of the Wasatch County Recorder.

[End of Agreement. Balance of page left blank intentionally.]



**OWNER:**  
THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation sole

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF UTAH )  
 )  
 ) :SS  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_, who executed the foregoing instrument as \_\_\_\_\_ of the Church of Jesus Christ of Latter-day Saints.

NOTARY PUBLIC

Residing at: \_\_\_\_\_



## **EXHIBIT A**

### **[Legal Description of Property]**

A PARCEL OF LAND SITUATE IN THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE & MERIDIAN, WASATCH COUNTY, UTAH. THE BOUNDARIES OF SAID PARCEL ARE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE TOWNSHIP LINE, SAID POINT IS 887.22 FEET N.89°48'22"E. ALONG SAID TOWNSHIP LINE FROM THE NORTHWEST CORNER OF SAID SECTION 4; (BASIS OF BEARING IS S.00°12'01"E. ALONG THE SECTION LINE BETWEEN THE FOUND MONUMENTS REPRESENTING THE NORTHWEST CORNER AND THE WEST QUARTER CORNER OF SAID SECTION 4); AND RUNNING THENCE ALONG SAID TOWNSHIP LINE N.89°48'22"E. 386.80 FEET; THENCE S.00°05'13"E. 19.76 FEET TO A POINT IN AN EXISTING WIRE FENCE LINE; THENCE ALONG SAID EXISTING WIRE FENCE LINE N.89°38'39"E. 886.24 FEET TO THE EXTENSION OF THE EASTERLY BOUNDARY LINE OF PROPERTY DESCRIBED IN QUIT CLAIM DEED IN FAVOR OF LOWER FIELD BOYD L.L.C. RECORDED AS ENTRY NO. 425030 IN BOOK 1160 AT PAGE 389 IN THE OFFICE OF THE WASATCH COUNTY RECORDER, SAID POINT IS ALSO THE EXTENSION OF AN EXISTING CONCRETE FENCE LINE; THENCE ALONG SAID EASTERLY BOUNDARY LINE AND ITS EXTENSION S.00°11'38"E. 206.56 FEET TO A POINT IN THE NORTHERLY BOUNDARY LINE OF BEAUFONTAINE AT SPRING LAKE PHASE 2 P.U.D. (BEAUFONTAINE) RECORDED AS ENTRY NO. 402104 IN BOOK 1107 AT PAGE 730 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG SAID NORTHERLY BOUNDARY LINE N.89°21'13"W. 151.53 FEET TO THE NORTHWEST CORNER OF SAID (BEAUFONTAINE); THENCE ALONG THE WESTERLY BOUNDARY LINE OF SAID (BEAUFONTAINE) S.02°42'20"W. 365.54 FEET TO THE SOUTHWEST CORNER OF SAID (BEAUFONTAINE), SAID POINT IS ALSO IN THE NORTHERLY BOUNDARY LINE OF TRIPLE CROWN SUBDIVISION PLAT A RECORDED AS ENTRY NO. 325405 IN BOOK 948 AT PAGE 1946-2015 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG SAID NORTHERLY BOUNDARY LINE AND ITS EXTENSION THE FOLLOWING THREE (3) COURSES: 1) S.89°36'38"W. 717.30 FEET, 2) S.00°05'13"E. 106.84 FEET AND 3) S.89°54'47"W. 606.00 FEET TO THE SOUTHWEST CORNER OF THE PROPERTY DESCRIBED IN GENERAL WARRANTY DEED IN FAVOR OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS RECORDED AS ENTRY NO. 524740 IN BOOK 1423 AT PAGE 365 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG THE WESTERLY BOUNDARY LINE OF SAID DESCRIBED PROPERTY N.17°24'47"E. 728.97 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 18.17 ACRES IN AREA, MORE OR LESS.

**EXHIBIT B**

[Final Plan]

**[To be Added Prior to Final Approval by County Council.]**

**EXHIBIT C**

[Conditions of Approval]

**[To be Added Prior to Final Approval by County Council.]**

## **EXHIBIT D**

[Design Guidelines]

1. The Temple will have a granite stone exterior which meets the requirements of the Exterior Lighting Ordinance.
2. The Temple will also have decorative metal exterior components.
3. The Temple will have metal framed windows with glazing.
4. Architectural design elements of Temple will be substantially similar to the image shown below.
5. The auxiliary / maintenance building will have a honed CMU exterior.

**[Insert Image of Temple Prior to Final Approval by County Council.]**



## **Exhibit E**

### **[Stormwater Infrastructure Maintenance Recommendations]**

#### **Post Construction Storm Water Management Plan**

##### **Heber Valley Temple: Wasatch County**

These Commercial Best Management Practices (BMPs) are measures and/or practices to be maintained by the property owner or operator to prevent illicit discharges, pollutants, and other contaminants from entering the county storm water system. These measures and practices are to be implemented upon completion of construction activities, to be conducted and maintained in perpetuity:

- \* Inspection and cleaning of Pretreatment boxes and catch basins. Pretreatment and catch basin are to be inspected periodically and are to be cleaned at least once each year. Storm drain manholes, flap gates, and the stream outfall will be inspected each fall and spring. Clear debris as required from the systems.
- \* Parking area cleaning and sweeping - Parking lots are to be swept from time to time as deemed necessary by Owner.
- \* Waste management and disposal- Standard trash and recycling materials will be disposed of in appropriate waste bins as required by applicable law. Regular cleaning of trash bin areas will be completed by the Owner.
- \* Landscape maintenance - Owner is responsible for general landscape maintenance. The landscape maintenance will consist primarily of watering and fertilizing. Logs of fertilization will be maintained by the Owner.
- \* Employee training - Property owner is to provide or require training in storm water quality management and required BMPs. Employee training in storm water quality management and required BMPs shall be integrated with any other existing employee training programs.
- \* Inspection of the isolator row of the underground detention system will be in accordance with the system manufacture recommendations during the first year and subsequent years of operation. Periodic cleaning of the isolator row will be completed as required to remove sediment in the isolator row. Cleaning will be in accordance with the system manufacture recommendations. The operations and maintenance of the rest of the underground system will also be in accordance with the system.
- \* Record of inspection and maintenance- The current year records of inspection and maintenance shall be kept by Owner and made available for review by county and/or state officials upon reasonable request. An inspection of the site may be conducted by the county annually, or at such reasonable lesser intervals as may be deemed necessary and appropriate.

The objective of the plan is to maintain the storm drainage and underground detention facilities as designed.

Heber Valley Temple.

# STORMWATER MAINTENANCE AGREEMENT INSPECTION FORM

Site Name:			Date of Evaluation			
Site Address:						
Facility Contact Information						
	NAMES			PHONE #'S		E-MAIL
CONTACT:						
CONTACT:						
BUSINESS TYPE:      INSTITUTION <input type="checkbox"/> COMMERCIAL x          INDUSTRIAL <input type="checkbox"/>						
Items Inspected	Checked		Maintenance		Inspector	Observations and Remarks
	Yes	No	Req'd	Not Req'd		
1.Review Stormwater site plan						
2. Dumping Evidence						
3. Spill Evidence						
4. General Site						
5. Other Pollution Sources						
6.General Maintenance Status						
Inlets						
Conveyance Systems						
Manholes						
Structural Devices						
Stormwater Storage						
Parking/Pavements						
Waste Collection						
Landscaping						
Flap Gates, SD Outfall						
7.Other Site Items						
Notes:						
Inspector:			Site Contact:			
Signature		Title	Signature		Date	

# Contactor® & Recharger® Stormwater Chambers



## Operation and Maintenance Guidelines for CULTEC Stormwater Management Systems

The Founder of Plastic Chamber Technology

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## Operations and Maintenance Guidelines

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**Contact Information:**

For general information on our other products and services, please contact our offices within the United States at (800)428-5832, (203)775-4416 ext. 202, or e-mail us at [custservice@cultec.com](mailto:custservice@cultec.com).

For technical support, please call (203)775-4416 ext. 203 or e-mail [tech@cultec.com](mailto:tech@cultec.com).

Visit [www.cultec.com/downloads.html](http://www.cultec.com/downloads.html) for Product Downloads and CAD details.

Doc ID: CULG008 05-17  
May 2017

*These instructions are for single-layer traffic applications only. For multi-layer applications, contact CULTEC.  
All illustrations and photos shown herein are examples of typical situations. Be sure to follow the engineer's drawings.  
Actual designs may vary.*





*This manual contains guidelines recommended by CULTEC, Inc. and may be used in conjunction with, but not to supersede, local regulations or regulatory authorities. OSHA Guidelines must be followed when inspecting or cleaning any structure.*

## Introduction

The CULTEC Subsurface Stormwater Management System is a high-density polyethylene (HDPE) chamber system arranged in parallel rows surrounded by washed stone. The CULTEC chambers create arch-shaped voids within the washed stone to provide stormwater detention, retention, infiltration, and reclamation. Filter fabric is placed between the native soil and stone interface to prevent the intrusion of fines into the system. In order to minimize the amount of sediment which may enter the CULTEC system, a sediment collection device (stormwater pretreatment device) is recommended upstream from the CULTEC chamber system. Examples of pretreatment devices include, but are not limited to, an appropriately sized catch basin with sump, pretreatment catchment device, oil grit separator, or baffled distribution box. Manufactured pretreatment devices may also be used in accordance with CULTEC chambers. Installation, operation, and maintenance of these devices shall be in accordance with manufacturer's recommendations. Almost all of the sediment entering the stormwater management system will be collected within the pretreatment device.

Best Management Practices allow for the maintenance of the preliminary collection systems prior to feeding the CULTEC chambers. The pretreatment structures shall be inspected for any debris that will restrict inlet flow rates. Outfall structures, if any, such as outlet control must also be inspected for any obstructions that would restrict outlet flow rates. OSHA Guidelines must be followed when inspecting or cleaning any structure.

## Operation and Maintenance Requirements

### I. Operation

CULTEC stormwater management systems shall be operated to receive only stormwater run-off in accordance with applicable local regulations. CULTEC subsurface stormwater management chambers operate at peak performance when installed in series with pretreatment. Pretreatment of suspended solids is superior to treatment of solids once they have been introduced into the system. The use of pretreatment is adequate as long as the structure is maintained and the site remains stable with finished impervious surfaces such as parking lots, walkways, and pervious areas are properly maintained. If there is to be an unstable condition, such as improvements to buildings or parking areas, all proper silt control measures shall be implemented according to local regulations.

### II. Inspection and Maintenance Options

- A. The CULTEC system may be equipped with an inspection port located on the inlet row. The inspection port is a circular cast box placed in a rectangular concrete collar. When the lid is removed, a 6-inch (150 mm) pipe with a screw-in plug will be exposed. Remove the plug. This will provide access to the CULTEC Chamber row below. From the surface, through this access, the sediment may be measured at this location. A stadia rod may be used to measure the depth of sediment if any in this row. If the depth of sediment is in excess of 3 inches (76 mm), then this row should be cleaned with high pressure water through a culvert cleaning nozzle. This would be carried out through an upstream manhole or through the CULTEC StormFilter Unit (or other pretreatment device). CCTV inspection of this row can be deployed through this access port to determine if any sediment has accumulated in the inlet row.
- B. If the CULTEC bed is not equipped with an inspection port, then access to the inlet row will be through an upstream manhole or the CULTEC StormFilter.
  1. **Manhole Access**  
This inspection should only be carried out by persons trained in confined space entry and sewer inspection services. After the manhole cover has been removed a gas detector must be lowered into the manhole to ensure that there are not high concentrations of toxic gases present. The inspector should be lowered into the manhole with the proper safety equipment as per OSHA requirements. The inspector may be able to observe sediment from this location. If this is not possible, the inspector will need to deploy a CCTV robot to permit viewing of the sediment.

For more information, contact CULTEC at (203) 775-4416 or visit [www.cultec.com](http://www.cultec.com).

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## Operations and Maintenance Guidelines

### 2. StormFilter Access

Remove the manhole cover to allow access to the unit. Typically a 30-inch (750 mm) pipe is used as a riser from the StormFilter to the surface. As in the case with manhole access, this access point requires a technician trained in confined space entry with proper gas detection equipment. This individual must be equipped with the proper safety equipment for entry into the StormFilter. The technician will be lowered onto the StormFilter unit. The hatch on the unit must be removed. Inside the unit are two filters which may be removed according to StormFilter maintenance guidelines. Once these filters are removed the inspector can enter the StormFilter unit to launch the CCTV camera robot.

- C. The inlet row of the CULTEC system is placed on a polyethylene liner to prevent scouring of the washed stone beneath this row. This also facilitates the flushing of this row with high pressure water through a culvert cleaning nozzle. The nozzle is deployed through a manhole or the StormFilter and extended to the end of the row. The water is turned on and the inlet row is back-flushed into the manhole or StormFilter. This water is to be removed from the manhole or StormFilter using a vacuum truck.

### III. Maintenance Guidelines

The following guidelines shall be adhered to for the operation and maintenance of the CULTEC stormwater management system:

- A. The owner shall keep a maintenance log which shall include details of any events which would have an effect on the system's operational capacity.
- B. The operation and maintenance procedure shall be reviewed periodically and changed to meet site conditions.
- C. Maintenance of the stormwater management system shall be performed by qualified workers and shall follow applicable occupational health and safety requirements.
- D. Debris removed from the stormwater management system shall be disposed of in accordance with applicable laws and regulations.

### IV. Suggested Maintenance Schedules

#### A. Minor Maintenance

The following suggested schedule shall be followed for routine maintenance during the regular operation of the stormwater system:

Frequency	Action
Monthly in first year	Check inlets and outlets for clogging and remove any debris, as required.
Spring and Fall	Check inlets and outlets for clogging and remove any debris, as required.
One year after commissioning and every third year following	Check inlets and outlets for clogging and remove any debris, as required.

#### B. Major Maintenance

The following suggested maintenance schedule shall be followed to maintain the performance of the CULTEC stormwater management chambers. Additional work may be necessary due to insufficient performance and other issues that might be found during the inspection of the stormwater management chambers. (See table on next page)



	Frequency	Action
Inlets and Outlets	Every 3 years	<ul style="list-style-type: none"> <li>Obtain documentation that the inlets, outlets and vents have been cleaned and will function as intended.</li> </ul>
	Spring and Fall	<ul style="list-style-type: none"> <li>Check inlet and outlets for clogging and remove any debris as required.</li> </ul>
CULTEC Stormwater Chambers	2 years after commissioning	<ul style="list-style-type: none"> <li>Inspect the interior of the stormwater management chambers through inspection port for deficiencies using CCTV or comparable technique.</li> <li>Obtain documentation that the stormwater management chambers and feed connectors will function as anticipated.</li> </ul>
	9 years after commissioning every 9 years following	<ul style="list-style-type: none"> <li>Clean stormwater management chambers and feed connectors of any debris.</li> <li>Inspect the interior of the stormwater management structures for deficiencies using CCTV or comparable technique.</li> <li>Obtain documentation that the stormwater management chambers and feed connectors have been cleaned and will function as intended.</li> </ul>
	45 years after commissioning	<ul style="list-style-type: none"> <li>Clean stormwater management chambers and feed connectors of any debris.</li> <li>Determine the remaining life expectancy of the stormwater management chambers and recommended schedule and actions to rehabilitate the stormwater management chambers as required.</li> <li>Inspect the interior of the stormwater management chambers for deficiencies using CCTV or comparable technique.</li> <li>Replace or restore the stormwater management chambers in accordance with the schedule determined at the 45-year inspection.</li> <li>Attain the appropriate approvals as required.</li> <li>Establish a new operation and maintenance schedule.</li> </ul>
Surrounding Site	Monthly in 1 <sup>st</sup> year	<ul style="list-style-type: none"> <li>Check for depressions in areas over and surrounding the stormwater management system.</li> </ul>
	Spring and Fall	<ul style="list-style-type: none"> <li>Check for depressions in areas over and surrounding the stormwater management system.</li> </ul>
	Yearly	<ul style="list-style-type: none"> <li>Confirm that no unauthorized modifications have been performed to the site.</li> </ul>

For additional information concerning the maintenance of CULTEC Subsurface Stormwater Management Chambers, please contact CULTEC, Inc. at 1-800-428-5832.

For more information, contact CULTEC at (203) 775-4416 or visit [www.cultec.com](http://www.cultec.com).

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## **WQMP Operation & Maintenance (O&M) Plan**

Project Name: \_\_\_\_\_

### **Prepared for:**

Project Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State Zip: \_\_\_\_\_

### **Prepared on:**

Date: \_\_\_\_\_





This O&M Plan describes the designated responsible party for implementation of this WQMP, including: operation and maintenance of all the structural BMP(s), conducting the training/educational program and duties, and any other necessary activities. The O&M Plan includes detailed inspection and maintenance requirements for all structural BMPs, including copies of any maintenance contract agreements, manufacturer's maintenance requirements, permits, etc.

#### 8.1.1 Project Information

Project name	
Address	
City, State Zip	
Site size	
List of structural BMPs, number of each	
Other notes	

#### 8.1.2 Responsible Party

The responsible party for implementation of this WQMP is:

Name of Person or HOA Property Manager	
Address	
City, State Zip	
Phone number	
24-Hour Emergency Contact number	
Email	

#### 8.1.3 Record Keeping

Parties responsible for the O&M plan shall retain records for at least 5 years.

All training and educational activities and BMP operation and maintenance shall be documented to verify compliance with this O&M Plan. A sample Training Log and Inspection and Maintenance Log are included in this document.

#### 8.1.4 Electronic Data Submittal

This document along with the Site Plan and Attachments shall be provided in PDF format. AutoCAD files and/or GIS coordinates of BMPs shall also be submitted to the City.

For more information, contact CULTEC at (203) 775-4416 or visit [www.cultec.com](http://www.cultec.com).

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### Appendix \_\_\_\_

#### BMP SITE PLAN

Site plan is preferred on minimum 11" by 17" colored sheets, as long as legible.



## BMP OPERATION & MAINTENANCE LOG

Project Name: \_\_\_\_\_

Today's Date: \_\_\_\_\_

Name of Person Performing Activity (Printed): \_\_\_\_\_

Signature: \_\_\_\_\_

BMP Name (As Shown in O&M Plan)	Brief Description of Implementation, Maintenance, and Inspection Activity Performed

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## Operations and Maintenance Guidelines

### Minor Maintenance

Frequency		Action
<b>Monthly in first year</b>		Check inlets and outlets for clogging and remove any debris, as required.
		Notes
<input type="checkbox"/> Month 1	Date:	
<input type="checkbox"/> Month 2	Date:	
<input type="checkbox"/> Month 3	Date:	
<input type="checkbox"/> Month 4	Date:	
<input type="checkbox"/> Month 5	Date:	
<input type="checkbox"/> Month 6	Date:	
<input type="checkbox"/> Month 7	Date:	
<input type="checkbox"/> Month 8	Date:	
<input type="checkbox"/> Month 9	Date:	
<input type="checkbox"/> Month 10	Date:	
<input type="checkbox"/> Month 11	Date:	
<input type="checkbox"/> Month 12	Date:	
<b>Spring and Fall</b>		Check inlets and outlets for clogging and remove any debris, as required.
		Notes
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<input type="checkbox"/> Spring	Date:	
<input type="checkbox"/> Fall	Date:	
<b>One year after commissioning and every third year following</b>		Check inlets and outlets for clogging and remove any debris, as required.
		Notes
<input type="checkbox"/> Year 1	Date:	
<input type="checkbox"/> Year 4	Date:	
<input type="checkbox"/> Year 7	Date:	
<input type="checkbox"/> Year 10	Date:	
<input type="checkbox"/> Year 13	Date:	
<input type="checkbox"/> Year 16	Date:	
<input type="checkbox"/> Year 19	Date:	
<input type="checkbox"/> Year 22	Date:	

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## Major Maintenance

Frequency		Action
Inlets and Outlets	<b>Every 3 years</b>	Obtain documentation that the inlets, outlets and vents have been cleaned and will function as intended.
		Notes
	<input type="checkbox"/> Year 1	Date:
	<input type="checkbox"/> Year 4	Date:
	<input type="checkbox"/> Year 7	Date:
	<input type="checkbox"/> Year 10	Date:
	<input type="checkbox"/> Year 13	Date:
	<input type="checkbox"/> Year 16	Date:
	<input type="checkbox"/> Year 19	Date:
	<input type="checkbox"/> Year 22	Date:
	<b>Spring and Fall</b>	Check inlet and outlets for clogging and remove any debris, as required.
		Notes
	<input type="checkbox"/> Spring	Date:
	<input type="checkbox"/> Fall	Date:
	<input type="checkbox"/> Spring	Date:
	<input type="checkbox"/> Fall	Date:
	<input type="checkbox"/> Spring	Date:
	<input type="checkbox"/> Fall	Date:
	<input type="checkbox"/> Spring	Date:
	<input type="checkbox"/> Fall	Date:
	<input type="checkbox"/> Spring	Date:
	<input type="checkbox"/> Fall	Date:
CULTEC Stormwater Chambers	<b>2 years after commissioning</b>	<input type="checkbox"/> Inspect the interior of the stormwater management chambers through inspection port for deficiencies using CCTV or comparable technique. <input type="checkbox"/> Obtain documentation that the stormwater management chambers and feed connectors will function as anticipated.
		Notes
	<input type="checkbox"/> Year 2	Date:

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## Operations and Maintenance Guidelines

### Major Maintenance

Frequency		Action
CULTEC Stormwater Chambers	<b>9 years after commissioning every 9 years following</b>	<ul style="list-style-type: none"><li>□ Clean stormwater management chambers and feed connectors of any debris.</li><li>□ Inspect the interior of the stormwater management structures for deficiencies using CCTV or comparable technique.</li><li>□ Obtain documentation that the stormwater management chambers and feed connectors have been cleaned and will function as intended.</li></ul>
	Notes	
	□ Year 9	Date:
	□ Year 18	Date:
	□ Year 27	Date:
	□ Year 36	Date:
	<b>45 years after commissioning</b>	<ul style="list-style-type: none"><li>□ Clean stormwater management chambers and feed connectors of any debris.</li><li>□ Determine the remaining life expectancy of the stormwater management chambers and recommended schedule and actions to rehabilitate the stormwater management chambers as required.</li><li>□ Inspect the interior of the stormwater management chambers for deficiencies using CCTV or comparable technique.</li><li>□ Replace or restore the stormwater management chambers in accordance with the schedule determined at the 45-year inspection.</li><li>□ Attain the appropriate approvals as required.</li><li>□ Establish a new operation and maintenance schedule.</li></ul>
	Notes	
	□ Year 45	Date:

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## Major Maintenance

Frequency		Action	
Surrounding Site	<b>Monthly in 1<sup>st</sup> year</b>		
	<input type="checkbox"/> Check for depressions in areas over and surrounding the stormwater management system.		
	Notes		
	<input type="checkbox"/> Month 1	Date:	
	<input type="checkbox"/> Month 2	Date:	
	<input type="checkbox"/> Month 3	Date:	
	<input type="checkbox"/> Month 4	Date:	
	<input type="checkbox"/> Month 5	Date:	
	<input type="checkbox"/> Month 6	Date:	
	<input type="checkbox"/> Month 7	Date:	
	<input type="checkbox"/> Month 8	Date:	
	<input type="checkbox"/> Month 9	Date:	
	<input type="checkbox"/> Month 10	Date:	
	<input type="checkbox"/> Month 11	Date:	
	<input type="checkbox"/> Month 12	Date:	
	<b>Spring and Fall</b>		
	<input type="checkbox"/> Check for depressions in areas over and surrounding the stormwater management system.		
	Notes		
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<input type="checkbox"/> Spring	Date:	
	<input type="checkbox"/> Fall	Date:	
	<b>Yearly</b>		
<input type="checkbox"/> Confirm that no unauthorized modifications have been performed to the site.			
Notes			
<input type="checkbox"/> Year 1	Date:		
<input type="checkbox"/> Year 2	Date:		
<input type="checkbox"/> Year 3	Date:		
<input type="checkbox"/> Year 4	Date:		
<input type="checkbox"/> Year 5	Date:		
<input type="checkbox"/> Year 6	Date:		
<input type="checkbox"/> Year 7	Date:		

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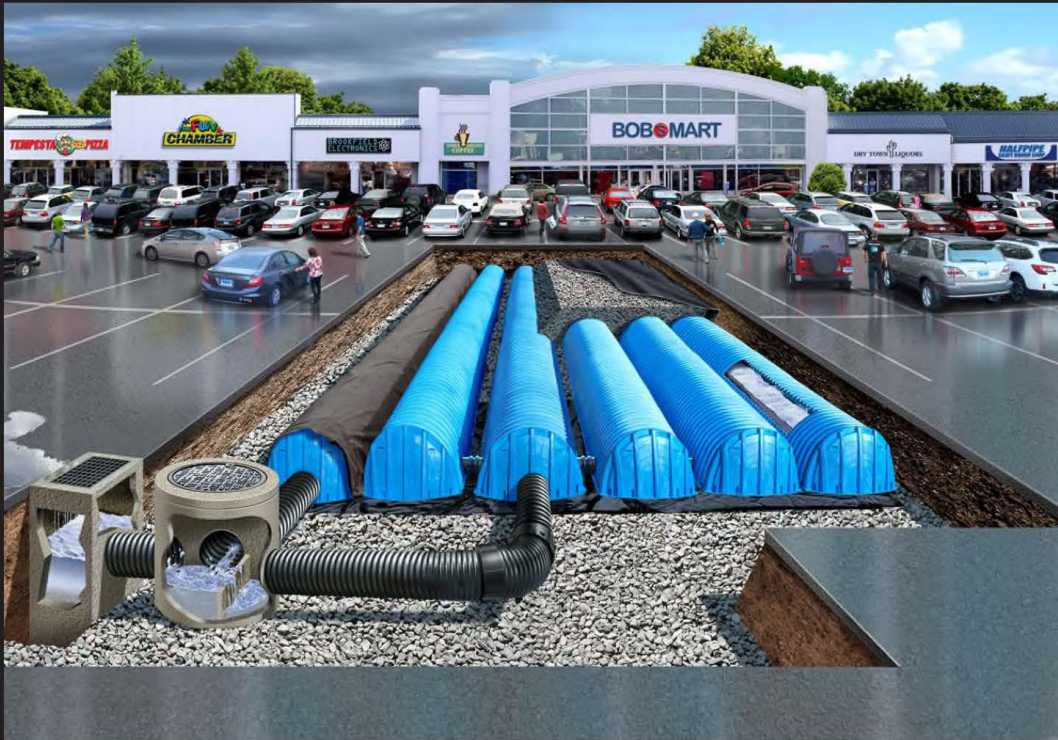
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CULG008 05-17



# CULTEC SEPARATOR™ ROW

## WATER QUALITY SYSTEM



## OPERATION & MAINTENANCE GUIDE

### FOR CULTEC STORMWATER MANAGEMENT SYSTEMS



STORMWATER MANAGEMENT SOLUTIONS



CULTEC



## CULTEC SEPARATOR™ ROW OPERATION & MAINTENANCE GUIDE

### Published by

**CULTEC, Inc.**

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### Contact Information:

For general information on our other products and services, please contact our offices within the United States at (800)428-5832, (203)775-4416 ext. 202, or e-mail us at [custservice@cultec.com](mailto:custservice@cultec.com).

For technical support, please call (203)775-4416 ext. 203 or e-mail [tech@cultec.com](mailto:tech@cultec.com).

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Feb 2022

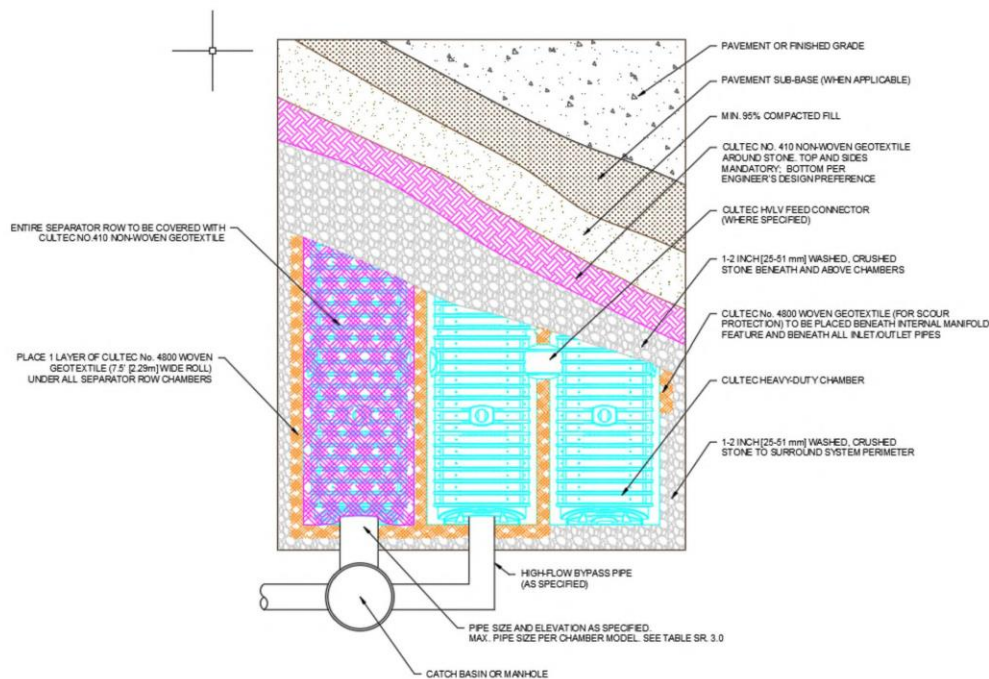
## Introduction

CULTEC's Separator™ Row is an inexpensive means of removing Total Suspended Solids from the CULTEC chamber system, as well as providing easier access for inspection and maintenance. The Separator Row is designed to capture the First Flush of a rain event and is typically included as part of the "Treatment Train" for water quality.

The CULTEC Separator Row is a row of CULTEC Contactor or Recharger Chambers that are surrounded on all sides by filter fabric. One layer of CULTEC No. 4800™ Woven Geotextile are placed between the clean foundation stone and the chamber feet. The chambers are then completely wrapped with CULTEC No. 410™ non-woven geotextile. This configuration is designed to trap any sediment and/or debris that may pass through the upstream water-quality structures and into the chamber system.

A manhole is typically located adjacent to the separator row for ease of inspection and maintenance. This manhole is placed upstream of the system and can include a high-flow bypass pipe to pass peak-flows onto adjacent rows of chambers. The upstream manhole is designed with a sump to trap heavier sediment and allow for proper cleaning of the Separator Row. A JetVac process with a high pressure water nozzle is introduced down the Separator Row via the access manhole to clean all sediment and debris from the Separator Row. Captured pollutants are flushed into the sumped access manhole for vacuuming, and the process is repeated until the Separator Row is completely free of sediment and debris.

The Separator Row performance has been tested and verified to the protocols and procedures as defined by Environmental Technology Verification (ETV) Canada to achieve 80% TSS removal.



For more information, contact CULTEC at (203) 775-4416 or visit [www.cultec.com](http://www.cultec.com).

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# CULTEC SEPARATOR™ ROW OPERATION & MAINTENANCE GUIDE

## Design

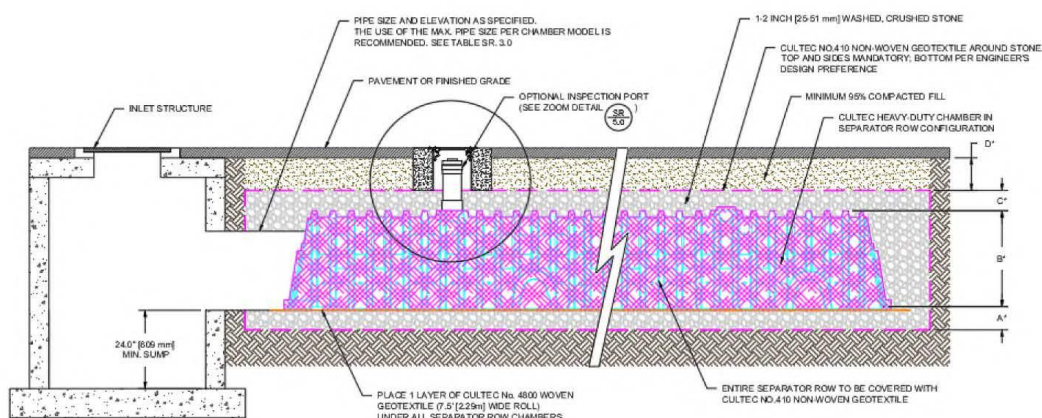
There is no single design to achieve a high level of water quality. The CULTEC Separator Row should be designed as part of an overall best management practices water quality system. Pre-treatment devices such as sump catch basins, inlet baffles and proprietary oil-grit separators and filter systems can all be incorporated upstream of the CULTEC Separator Row. Sumped access/diversion manholes should be installed directly upstream of the Separator Row.

The following is a list of recommended design practices to ensure proper maintenance for the life of the system:

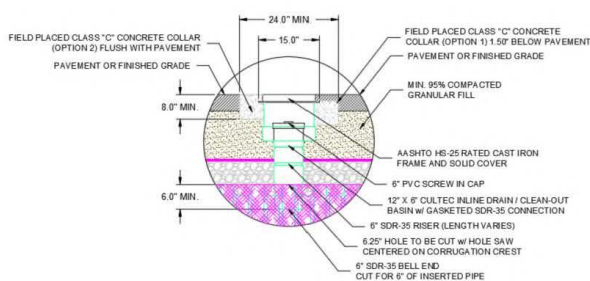
- Install summed access/diversion manholes, including a minimum 24" (600 mm) sump, directly upstream of the Separator Row.

- Include a high-flow bypass pipe to divert peak flows that exceed the capacity of the Separator Row to adjacent rows.
- Connect the access manhole to the Separator Row with the largest diameter pipe allowable based on the CULTEC chamber model used.
- Maintain a minimum distance between the access manhole and the Separator Row to promote efficient maintenance.
- Include at least one inspection port per Separator Row for periodic inspection.

Note: Typical JetVac maintenance reels have a maximum of 400 feet (121.9 m) of available hose. Consider this when designing the length of the CULTEC Separator Rows.



**\*SEE SR 3.0 - CROSS SECTION TABLE REFERENCE**

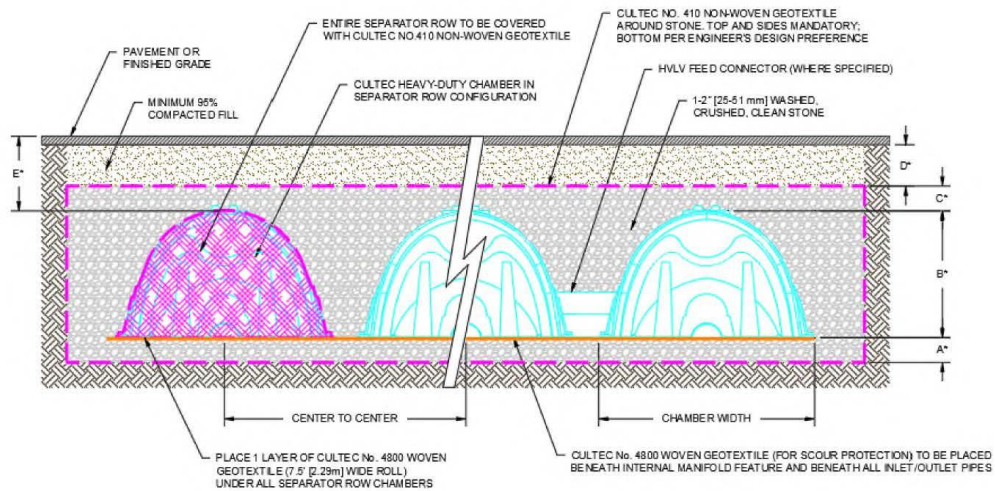


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\*SEE SR 3.0 - CROSS SECTION TABLE REFERENCE

**Table SR 3.0**

Description		Contactor 100HD	Recharger 150XLHD	Recharger 280HD	Recharger 330XLHD	Recharger 360HD	Recharger 902HD
A	Min. depth of stone base	6"	6"	6"	6"	6"	9"
		152 mm	152 mm	152 mm	152 mm	152 mm	229 mm
B	Chamber height	12.5"	18.5"	26.5"	30.5"	36"	48"
		318 mm	470 mm	673 mm	775 mm	914 mm	1219 mm
C	Min. depth of stone required above units for traffic applications	6"	6"	6"	6"	6"	12"
		152 mm	152 mm	152 mm	152 mm	152 mm	305 mm
D	Min. depth required of 95% compacted fill for paved traffic application	8"	8"	8"	10"	12"	12"
		203 mm	203 mm	203 mm	254 mm	305 mm	305 mm
E	Max. depth of cover allowed above crown of chamber	12'	12'	12'	12'	12'	8.5'
		3.65 m	3.65 m	3.65 m	3.65 m	3.65 m	2.59 m
	Max. allowable pipe size into chamber end wall/end cap	10"	12"	18"	24"	24"	24"
		250 mm	300 mm	450 mm	600 mm	600 mm	600 mm

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## CULTEC SEPARATOR™ ROW OPERATION & MAINTENANCE GUIDE

### Inspection and Maintenance

CULTEC recommends inspection of the Separator Row to be performed every six months for the first year of service. Future inspection frequency can be adjusted based upon previous inspection observations. However annual inspections are recommended. Inspection of the Separator Row can be achieved via an inspection port riser installed during construction. This inspection port riser will connect the top of the Separator Row chambers to finished grade with a removable lid. Alternatively the Separator Row may be inspected via the manhole(s) located at the end(s) of the Separator Row. However this method of inspection requires confined space entry. If entry into the manhole is required, all local and OSHA rules for confined space entries must be strictly followed.

To inspect:

- Remove the inspection port lid from the floor box frame.



High pressure water nozzle

- Remove the riser pipe cap.
- With a flashlight and stadia rod, measure the depth of sediment.
- Record results in a maintenance log.
- When depth of sediment exceeds 3" (76 mm), use the JetVac procedure described below.

The JetVac process utilizes a high pressure water nozzle controlled from the surface. The high pressure nozzle is introduced down the Separator Row via the access manhole(s). The high pressure water cleans all sediment and debris from the Separator Row as the nozzle is retrieved. Captured pollutants are flushed into the sumped access manhole for vacuuming. This process is repeated until the Separator Row is completely free of sediment and debris. A small diameter culvert cleaning nozzle is recommended for this procedure.



Cleaning Separator Row and pipes with high pressure water nozzle



SEPARATOR ROW: Separator Row prior to cleaning



ADJACENT ROW: When the Separator Row is working properly, the adjacent rows will not show signs of sediment.

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### Inspection and Maintenance Record

Date	Mode of Access	Frequency	Depth of Sediment	Actions	Expenses	Inspector	Notes
Ex.	Inspection Port	Semi-annually	2"	Measure sediment depth with stadia rod. Visually inspect	\$100	DPG	Depth of Sediment was measured via Northeast Inspection Port Adjacent to MH-1. Sediment depth was found to be 2". No further action required at this time.
Ex.	Access Manhole	Annually					

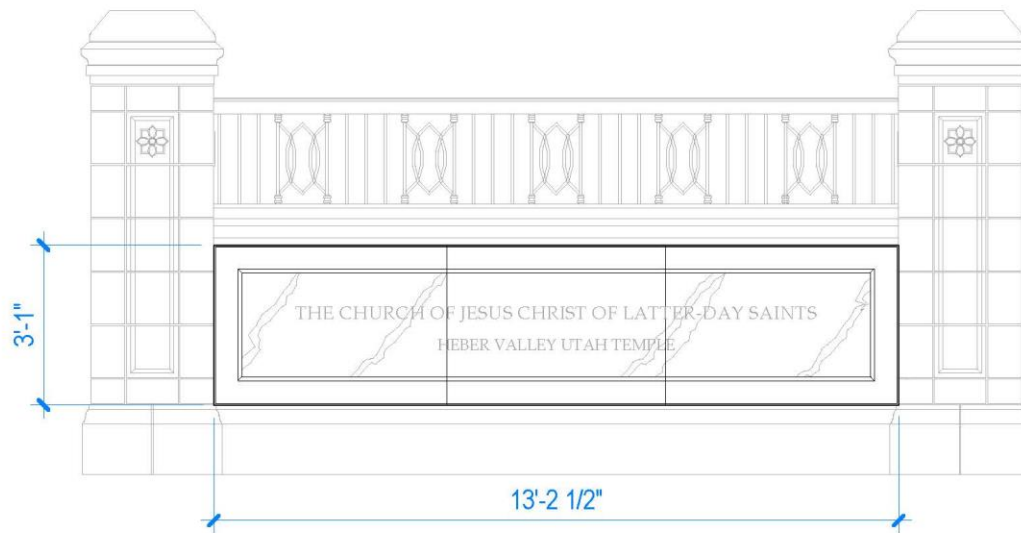
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**Exhibit F**

[Approved Signs]



## **Exhibit G**

[Fire Access]

